Industrial Relations
Research Association

Power in Industrial Relations

Its Use and Abuse

Papers presented at
St. Louis, Missouri
May 2-3, 1958

1958 OFFICERS OF IRRA

President	E. Wight Bakke
Executive Board	Daniel Bell
	Emily C. Brown
	Otis Brubaker
	Harry M. Douty
	Murray Edelman
	Robben W. Fleming
	William Haber
	Peter Henle
	Howard Kaltenborn
	Charles C. Killingsworth
	Jean T. McKelvey
	Arthur Stark
	Leo Teplow
	Harry Weiss
	Dale Yoder
Secretary-Treasurer	Edwin Young
Legal Counsel	Jesse Freidin
Editor	Gerald Somers

1958 SPRING MEETING

St. Louis, Missouri; Hotel Statler; May 2 and 3

Program Committee: George Seltzer, chairman; Adolph Berger, Lyle Cooper, Milton Derber, David Dolnick, Ronald W. Haughton, Herbert S. Parnes, Rev. Theodore V. Purcell, Albert Rees, Joel Seidman, Sander W. Wirpel

Local Arrangements Committee: Rev. Leo C. Brown and Irving Sobel (co-chairmen); William Gomberg, Stanley Young

1958 ANNUAL MEETING

Chicago, Illinois; Conrad Hilton Hotel; December 28-30

Program Chairman: E. Wight Bakke

Local Arrangements Chairman: Sander W. Wirpel

Power In Industrial Relations

Its Use and Abuse

Industrial Relations Research Association

Proceedings of the Spring Meeting

St. Louis, Missouri

May 2-3, 1958

REPRINTED WITH THE PERMISSION OF
INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

UNIVERSITY MICROFILMS, INC.
A SUBSIDIARY OF THE XEROX CORPORATION
ANN ARBOR, MICHIGAN
1966

PREFACE

This volume represents the Industrial Relations Research Association's first publication of the proceedings of one of its regular spring meetings. At the conclusion of the meeting in St. Louis there was a widespread opinion favoring publication of the papers because of the interest and timeliness of the program sessions.

Unlike the Annual Meetings, of which the tenth volume of proceedings was published earlier this year, the spring programs customarily focus on a single over-all theme. The subject of the St. Louis meeting, "Power in Industrial Relations: Its Use and Abuse," was subdivided into sessions ranging from interpretative discussions of the power concept and appraisal of the broad picture of the labor-management relationship, to analysis of the impact of power relationships in specific industries and areas.

The Editor is grateful to the program's participants for their prompt cooperation in preparing and submitting manuscripts following the decision to publish the proceedings. The Association owes a major debt of gratitude to the publishers of the LABOR LAW JOURNAL. These papers were initially included in the September, 1958 issue of the JOURNAL, and reprints were made available to the IRRA through the courtesy of Commerce Clearing House, Inc.

Gerald Somers,
Editor

Printed in the United States of America
ARNO PRESS, INC., N. Y.

CONTENTS

Reprinted from the September, 1958 Issue of
LABOR LAW JOURNAL
Published and Copyrighted 1958 by
Commerce Clearing House, Inc., Chicago 46, Illinois

Lights and Shadows in Labor-Management Relations

By NATHAN P. FEINSINGER

The author is professor of law, University of Wisconsin. When he delivered this address before the IRRA in May, he was visiting professor of law at the University of Michigan.

POLITICS, it has been said, is the art of accomplishing the possible. Research, it may be said, is the art of ascertaining the desirable. What is a sound labor-management relationship? How close have we come to obtaining it? What can be done to close the gap? Do we need more laws, and if so, what kind?

Meaning of Relationship

What do we mean by a sound labor-management relationship? There is not and cannot be complete agreement on the answer. This is understandable in view of the complex interests involved and the different values placed on those interests by various people, depending on their point of view, their experience or the problems they face.

I am reminded of an exchange between an attorney and Chairman William H. Davis in a case being heard by the War Labor Board. In the course of discussion, the attorney challenged the chairman's views on the ground that he had never had "to meet a payroll," to which the chairman replied gently: "That may be. But, sir, have you ever had to be chairman of the War Labor Board?"

I suppose, nevertheless, that there are some points of general agreement. It may be assumed that a sound labor-management relationship is one which operates within a framework of democratic institutions—free competition, free collective bargaining and a free labor movement, with due regard for the national goals of full production, full employment and adequate purchasing power, industrial peace and the rights of individuals. Opinions differ, however, as to how these results are to be achieved, and, when a choice must be made among desirable objectives, as to which objectives should be stressed.

The labor-management relationship is complicated because it involves elements of competition and cooperation. The investor in a business seeks the greatest possible return for his capital. The worker seeks the greatest possible return for his labor. These objectives are basic and do not change. However, neither would profit if it were wholly successful in achieving its objective. The well-being of each is tied to sympathetic understanding of the other's needs and desires, and to cooperation in meeting each other's problems.

The public has an interest in both the competitive and the cooperative aspects of the labor-management relationship. The public interest in the competitive aspect is obvious. Management competes by saying "no" to labor's demands. Labor competes by the right to strike. A "no" at the wrong time may mean insufficient mass purchasing power. A strike at any time means industrial unrest. The public interest in the cooperative aspect is two-sided. On the one hand, cooperation is obviously to be encouraged if it leads to industrial peace. However, cooperation is suspect if it appears to threaten economic stability—a voluntary wage increase, for example, which results in a price increase—or if it appears to ignore the rights of individual workers.

Historical Background

By and large, until the 1920's the policy of Congress and the state legislatures as to

labor-management relations was one of n-action. Any problems arising therefrom were left to be solved by economic weapons. The employer was free to resist organization by the exercise of the right to discharge, and to refuse to bargain collectively despite organization. Labor was free to strike as a countermeasure. This was free competition, at the price of individual security and industrial peace. If the competition got out of hand, the processes of the law—including the usual remedies of criminal penalties, damages and the injunction—were looked upon as the appropriate means of labor-dispute settlement. The trouble with this approach was that the competition was unequal, the legal processes often one-sided or ineffective in the long run, and the problems of a healthy economy, industrial peace and worker security thus left unresolved.

By 1925, three propositions had begun to emerge from experience: first, that the individual worker needs protection to engage in concerted activities if he is to be able to bargain in any real sense with his employer; second, that collective bargaining offers an opportunity for peaceful settlement of labor disputes; third, that the judicial process does not provide a satisfactory means for resolving labor disputes. These propositions, with varying emphasis, were embodied in the Railway Labor Act of 1926, as amended in 1934, the Norris-LaGuardia Act of 1932 and the Wagner Act of 1935.

This legislation purported to take care of the problems uppermost at the time. Once a union was recognized, the parties were expected, as the Supreme Court has said, to follow "the philosophy of collective bargaining as worked out in the labor movement in the United States."[1] That philosophy embraced actions whereby an employer undertook to cooperate with the union by securing adherence to its policies and practices. In this respect, as in some others, the National Labor Relations Board and the courts have ignored the traditions of collective bargaining by prohibiting many forms of labor-management cooperation which would strengthen the position of the union.

For this view, reliance has been placed on a provision of the Wagner Act, carried over to the Taft-Hartley Act, forbidding an employer to "encourage or discourage membership in" a union.[2] Whatever might be said for the view that an employer should not be permitted to pressure an employee into *joining* a union, it seems quite unrealistic, and certainly contrary to "the philosophy of collective bargaining as worked out in the labor movement of the United States," to prohibit management from cooperating with a union simply because this cooperation would strengthen the position of the union. This is one of the shadowy corners of the law affecting labor-management relations which merits exploration.

Wagner Act

The Wagner Act preserved the right of labor and management to determine wage levels as well as conditions of employment by collective bargaining, as essential to a free economy. The right of labor to strike in the event of a stalemate was preserved as essential to a free labor movement and as an integral part of the collective bargaining process. No criteria were established to guide the unions in the exercise of their newly won status as exclusive bargaining representatives (by virtue of law) toward their constituents, whether members of the union or otherwise. Finally, no guidance was provided as to the form or content of the collective bargaining process. Congress was concerned primarily with bringing the parties to the collective bargaining table. Thereafter, as stated above, the parties were expected to follow "the philosophy of collective bargaining as worked out in the labor movement in the United States."

World War II posed a new set of problems. National survival was considered the matter of prime importance, outweighing the values of free collective bargaining and the right to strike. Nevetheless, the Administration did not proceed by direct action, but sought and obtained a voluntary no-strike, no-lockout agreement. Later, when competitive bidding for labor threatened a wage-price spiral, wage controls were instituted with accompanying price controls. While in this area labor and management were not asked for advance consent, the stimulus of patriotism generated by the war effort produced acquiescence, however grudging.

Governmental Intervention

There is no present widespread demand for government determination of collective bargaining labor disputes through an agency like the War Labor Board, or for govern-

[1] *Order of Railroad Telegraphers v. Railway Express Agency,* 8 LABOR CASES ¶ 51,174 321 U. S. 342 (1944).

[2] See, for example, *Radio Officers Union v. NLRB,* 25 LABOR CASES ¶ 68,111, 347 U. S. 17 (1954).

ment wage controls. There is, however, a strong undercurrent in that direction, running beneath various legislative proposals. If such proposals are to receive serious consideration, they should be weighed in the light of our wartime experience.

The wartime experience justifies the following observations. First, government determination of labor disputes discourages collective bargaining, because one side or the other will always hope for favorable governmental action. Second, such intervention tends to standardize terms and conditions of employment, overlooking historical and otherwise justifiable differences in collective bargaining practices. The same may be said about governmental wage-fixing. Third, either form of intervention builds up resentment against real or fancied inequality of treatment by the government which, added to the frustration of the collective bargaining process, seriously impairs the stability of the labor-management relationship. Fourth, when the government needs the help of labor in times of crisis, it must deal with unions rather than with individuals, bargaining units or majority groups therein.

The war experience threw some light on other long-range aspects of the labor-management relation. That experience emphasized the fact that the collective bargaining process does not stop with the making of the agreement, but extends to its day-to-day administration and enforcement. The War Labor Board early realized that the government could not possibly cope with the myriad of day-to-day problems arising at the plant level, and that these problems would have to be settled by the parties themselves. Since such problems were a fertile source of strikes, some means had to be devised to settle them with finality. The board accordingly adopted a policy of recommending contract grievance systems, terminating in final and binding arbitration. While the recommended procedure was not novel, the board's action led to its widespread adoption, and it has since become the keystone of the labor-management relationship, so far as contract administration and enforcement are concerned.

The issue of compulsory unionism proved more difficult to solve. At that time, the parties were legally free to *agree* on any form of union shop. The problem was what the government should do if the parties failed to agree and the issue was presented for decision by the board, in lieu of settlement by a strike. While recognizing that the issue had a number of facets, the board eventually cast the issue in terms of union security. It reasoned that a union could not be expected to discharge its responsibilities in the war effort unless its status as bargaining agent were made secure during the life of the contract. Hence a union, provided it was responsible, was given a degree of security by board order through the maintenance-of-membership formula. Under this formula, no worker could be required to *join* a union. However, if he did join, he had to remain a member for the life of the contract or risk the loss of his job on request by the union. Obviously, this formula did not meet all of the unions' arguments or all of the employers' objections, but it served as an effective compromise of a difficult and delicate issue for the duration of the war.

Collective Bargaining Process

The wave of postwar strikes created a public demand for government action. As often happens, the resulting legislation went far beyond the immediate issue and extended to a wholesale revision of existing labor policy.

(1) Establishment of the collective bargaining process.—The Taft-Hartley Act of 1947 did not purport to change the basic concepts established by the Wagner Act. Instead, it purported to add certain other concepts, including the concept that employees should be free to *refrain* from concerted activities, and that employers should be free to encourage them to do so. This appears to represent a shift from a governmental policy of affirmative encouragement of collective bargaining to a policy of neutrality, implying that an organizational campaign is in essence simply a contest between unions and management for the loyalty of the employee. The resultant sharpening of the labor-management contest at the organizational stage has undoubtedly had an adverse effect on the collective bargaining relationship, once established.

(2) The collective bargaining process.—In 1935, Congress meant primarily, as I have said, to bring the parties to the conference room in a bargaining frame of mind, with the procedure and substance of negotiations to be guided by established practices which were, for the most part, exceedingly flexible. Nevertheless, the National Labor Relations Board has superimposed its views, in many instances, as to

what constitute sound collective bargaining practices.[3]

The Taft-Hartley Act gave tacit approval to the Board's views and imposed certain additional limitations on the collective bargaining process. In the matter of substance, the most obvious limitation was to prohibit the parties to agree on any form of union security except one that would result in discharge only for failure to pay an amount equal to union initiations and dues. The states were authorized to outlaw even such agreements. In the matter of procedure, among other changes, Congress provided that economic strikes must be preceded by a 60-day notice of reopening or termination. Whatever their merits, such actions constituted significant changes in the collective bargaining process. There is little evidence that labor-management relations have been made more stable or that industrial peace has increased as a result.

The nature of the collective bargaining agreement has always been difficult to define with legal precision. It is not a contract of hire. However, among other things, it does set forth rights and duties which affect that contract when made between the employer and the individual worker. The nature of those rights and duties, the parties to whom the rights run, and the proper method of enforcement have also presented difficult questions—at least for the lawyers and the courts.

Traditionally, the collective bargaining agreement has been enforced mainly by the strike or by voluntary arbitration, and only rarely by court action. By Section 301 of the Taft-Hartley Act, Congress provided for enforcement of collective bargaining agreements by federal suits between employers and unions. In adopting Section 301, Congress felt that (1) unions were in the habit of violating no-strike agreements, thereby upsetting industrial stability, and (2) since employers were bound to their contracts, labor should be equally bound as a matter of fairness. It is too late to argue the validity of these premises. The important fact is, as the Supreme Court held in the *Lincoln Mills* case,[4] that Congress has authorized the courts "to fashion a body of federal law for the enforcement of . . . collective bargaining agreements." Since enforcement cannot be separated from the whole collective bargaining process, we may expect the Court's decisions, in carrying out its assignment, to have a considerable impact on the institution of collective bargaining and on the labor-management relationship. This is already evidenced by two major decisions.

In the *Lincoln Mills* case, the Supreme Court held that by virtue of Section 301, agreements to arbitrate are specifically enforceable in a suit by the employer or the union. To implement this decision, the courts are being called upon to review agreements to arbitrate in order to determine, for example, questions of arbitrability. There is no question but that judicial intervention on this and other aspects of the agreement to arbitrate tends to deprive the arbitration process of its character as a final and binding disposition of a dispute and, as has aptly been said, to encourage resort to the courts as a "fourth strike" in the collective bargaining process.

In the *Westinghouse* case,[5] the Supreme Court held that a union may sue only to enforce rights running to it, such as an agreement to arbitrate or a checkoff clause, but may not enforce an employee's "uniquely personal right" such as a wage claim. To say that the whole body of employees represented by a union has no interest in a claim that the collective bargaining agreement has been violated ignores reality, as recognized by the Court itself on an earlier occasion.[6] If, as I have suggested, the collective bargaining process extends to the enforcement of the agreement, such decisions present difficult problems of readjustment for management and unions in the drafting of the collective bargaining agreement, and in their day-to-day relationship. The courts face a difficult task in carrying out the task assigned to them by Congress so as to cause a minimum of disturbance to sound labor-management relations.

"Union Monopoly Power"

Today, many people seem to be concerned with a new set of values, phrased in terms of "union monopoly power" and "union democracy" or "union responsibility." The phrase "union monopoly power" has a variety of connotations. Among other things,

[3] The Supreme Court has attempted to check this tendency. See *NLRB v. American National Insurance Company*, 32 LABOR CASES ¶ 69,980, 343 U. S. 395 (1952).

[4] *Textile Workers Union of America v. Lincoln Mills of Alabama*, 32 LABOR CASES ¶ 70,735, 353 U. S. 448 (1957).

[5] *Association of Westinghouse Salaried Employees v. Westinghouse Electric Corporation*, 27 LABOR CASES ¶ 69,063, 348 U. S. 437 (1955).

[6] See *J. I. Case Company v. NLRB*, 8 LABOR CASES ¶ 51,173, 321 U. S. 332 (1944).

it suggests that unions have grown so powerful that through the threat of strike action they can and do dictate the wage bargain, and as a consequence have pushed wages beyond reason.

The suggestion assumes the existence of some objective standard of a fair wage. It assumes, further, that labor is already receiving a fair wage and, in any case, that any further wage increases should be limited to increased productivity. Thus far, in the collective bargaining process a fair wage has been understood to mean that wage which the employer has been willing to pay and which the employee, through his union, has been willing to accept. Labor would, I suppose, be willing to agree to a wage formula based on increased productivity, provided that the parties could agree on how to measure increased productivity and agree on labor's proper share therein. Since agreement on such questions seems remote, the usual processes of collective bargaining, including the right to strike (to which I suppose I should add, in the light of recent developments, the right *not* to strike), will probably continue to dictate the terms of settlement at any given time.

The arguments concerning labor's monopoly power suggest that somehow labor's *striking* power should be limited to that point at which employer resistance may become once more effective, and a proper balance of power restored. This is an intriguing suggestion, but hardly more practical than a suggestion that where an employer is stronger than his union, he likewise should be "cut down to size." A more workable suggestion is that employers, where they feel outmatched, should combine for collective bargaining purposes. Though such action would apparently be legal, it is contrary to the mores of a large segment of American industry. There are, nevertheless, some signs of change in that respect.

What then? I suggest that, on the whole, the results of collective bargaining have not been as arbitrary as alleged, and that, in any event, no one can point to any other procedure which could have produced better results within a farmework of free institutions. The question remains as to whether collective bargaining is capable of producing better results; more particularly, whether it can be adapted to meet the current danger of inflation.

The difficulty is not with the institution of collective bargaining, but with the inability or unwillingness of labor and management to make full use of its potentialities. If management has a valid case against substantial wage increases at this time, then labor, with the nation's best interests in mind, should be open to persuasion. However, management does not always make its case in the most persuasive terms. There is, at least in that phase of the bargaining process aimed at the public, too much bargaining at arm's length—too much emphasis on theoretical economics (though the economists themselves are not in substantial agreement) and not enough attention to the immediate and long-range problems of the particular company or industry and its employees. Perhaps, if the parties are to adapt their bargaining to the needs of the times, this is a time when attention should be focused on issues other than wages. It may be, for example, that there are many improvements in fringe benefits and even nonmoney contract matters of significance to the workers that could be used constructively as the basis for a trade until such time as the economy can absorb additional increases in wage levels.

The issue of union security or compulsory union membership, which seems also to be involved in the charge of union monopoly power, has so many overtones as to defy simple analysis. Government policy on the issue has changed radically in the past 20 years. Since the Taft-Hartley Act, the maximum form of compulsion permitted under a union security agreement is the payment by a worker to the union which bargains for him of an amount equal to the union's initiation fees and dues. The union shop agreement today may properly be called a share-the-bargaining-cost agreement. As long as an employee who is unwilling to join the union does that much, his job is safe. The theory of Congress in permitting even this much compulsion was to eliminate "free riders," that is, those employees who would accept the benefits of collective bargaining without sharing in its costs.

In addition to drastically limiting the scope of permissible union security agreements under federal law, Congress has authorized the states to outlaw bargaining on the subject entirely. This is the effect of state right-to-work laws. The question frequently raised is whether Congress should adopt a uniform policy either outlawing or permitting share-the-bargaining-cost agreements in all states. The answer to this question should depend, at least in part, on the impact of any choice of alternatives on sound labor-management relations and industrial peace. The problem has not yet

become acute, since only one of the 18 states now having a right-to-work law is an industrial state. However, the problem is likely to become acute as other industrial states are called upon to decide.

In the mass production industries particularly, management formerly resisted union security agreements so long as such agreements limited its selection of job applicants or required it to discharge employees expelled from the union for what the union, but not necessarily the employer, regarded as good and sufficient reasons. With the outlawing of the closed shop, assurance of the right of selection, and assurance against any obligation to discharge except on the single ground of failure to contribute to the cost of collective bargaining, much of management's opposition to the union shop has disappeared. Unions, likewise, have for the most part become adjusted to the present form of union shop, which is far removed from their traditional concept.

Thus Congress, like the War Labor Board in its time, has succeeded in effecting a workable compromise (of a difficult and delicate problem) which has proved acceptable to a substantial part of labor and management. If this compromise arrangement should be upset either by federal action or by extension of state right-to-work laws to the industrial states, industrial unrest and upsetting of stable labor-management relations are inevitable. Congress must weigh these risks against the hardship on an individual in being required to share the costs of the bargaining process as a condition of his employment—a requirement which has a good deal more to commend it, in logic and fairness, than many other conditions of employment with which he is expected to comply in both organized and unorganized plants.

Union Responsibility and Union Democracy

Traditionally a union has been regarded simply as a private, voluntary association with the right to select its membership to conduct its internal affairs, and to discharge its bargaining functions as it chose. Until recently, the law has paid little attention to these matters. Today, we are witnessing drastic changes, or proposals for change, in these areas.

The recently advanced concepts of union responsibility and union democracy appear to relate mainly to the relation of a union toward its members. By its adoption of ethical practices codes, the AFL-CIO has clearly concurred in the view that as an institution seeking to achieve industrial democracy, a union should itself observe democratic standards in its internal procedures. Its resistance is not to the principle but to proposals to effectuate the principle by legislation, which presupposes extensive and close administrative and judicial regulation. It is particularly resentful that the current proposals emanate to a considerable extent from sources which it regards as antilabor, all purporting to hand labor a bill of rights.

Granted that some proposals for legislation in the field of union responsibility and union democracy came from friendly sources, and that legislation in some form may be necessary, this would nevertheless seem to be a field in which to make haste slowly. The AFL-CIO has shown its awareness of weaknesses in the functioning of the labor movement even before the stimulus of the McClellan Committee investigation. It is paradoxical that labor should be faced with restrictive legislation at the very moment when it is taking courageous and effective action against abuses of long standing. If any legislative action be deemed necessary by Congress at this time to encourage further corrective action, I suggest that it should be limited to the appointment of a commission to which Congress would report its findings and state its objectives. Such a commission would then maintain contact with the unions, encourage extension and refinement of voluntary codes of ethics, receive progress reports and report to the Congress from time to time, proposing specific legislation only if the desired results could not be obtained by voluntary action within a reasonable time.

Conclusion

We seem to be striving for a national labor policy which would accomplish a number of desirable objectives, all within the framework of a free competitive society. It is obvious that not all of these objectives can be achieved simultaneously, in full measure. Which objectives should be stressed at any given time involves the exercise of an informed judgment, backed by an appreciation of the delicate and complex nature of the labor-management relationship and attention to the lessons of experience.

Experience has taught us that a sound labor-management relationship and industrial peace are most likely to evolve from a system of responsible self-government, rather than from a set of rules imposed by

the legislature and applied by administrative agencies and the courts. It is reasonable to suppose that improved standards of union responsibility and democracy can likewise best be achieved by self-regulation rather than by law. Finally, if in the judgment of Congress new laws are needed, the formulation of such laws should take account of the fact that most progress in labor-management relations (as in any field of human relations) is made by persuasion rather than by force. Force, if necessary at any time, should follow only after all appeals to reason have failed. **[The End]**

Topic: **Power Relationships Within the Labor Movement**
Chairman of Session: **Joel Seidman**

Concepts of Power

By MURRAY EDELMAN

Murray Edelman is associate professor of political science at the University of Illinois (Champaign).

SINCE ARISTOTLE, and very likely before that, social scientists have been talking about what power is and what generates it, with the result that in 1958 the IRRA still felt it necessary to schedule a conference on the subject. That is wholly to be commended. When a term is widely regarded as both important and confusing after more than two millennia of discussion and analysis, one or more of the following propositions about it is likely to be true.

First, it may raise highly complicated questions. This is unquestionably true of the term "power," and whatever contribution this paper makes, incidentally, will be in the direction of trying to make it even more complicated. You have no doubt heard the story of the man who attended a piano concert. After listening to some particularly involved pyrotechnics by the artist of the afternoon, he remarked to his companion: "I'm sure that is very difficult, and I only wish it were impossible." This is a feeling we are all likely to have experienced when trying to analyze power.

Second, the term may not pose a problem at all in the sense that a problem requires a clear statement of variables which, in theory at least, produces a specific result of a finite number of results. Instead it may be a reification of abstract notions producing discussion for the very reason that it efficiently blocks a meeting of minds among the discussants. Hearing the term "power," one person may picture a gun blasting the enemy; another, a physical field of force; a third, weights on a scale; and a fourth, a network of forces. The term "power" is, of course, constantly used without definition, and, as I propose to show in more detail later on, a great deal of the discussion does consist of reification of abstractions. So this, too, is part of the explanation.

In the third place, and probably most important of all, the term may be a propaganda device rather than an analytical concept. It may be a symbol that arouses emotions; it may, therefore, be a tool that can be used for manipulation of opinion by members of various interest groups. This is, of course, a very important social function for any concept or term to serve. We all like to make propaganda for our various goals, and there is little doubt that the term "power" is thrown around as a symbol with this propagandistic function, chiefly as applied to one's opponents.

In these respects the term "power" has been the subject of several millennia of discussion for very much the same reasons that the terms democracy, justice and public interest, and some others that you can name, have been the subjects of millennia of discussion.

Any word, of course, can mean exactly what the speaker wants it to mean, neither

more nor less, to quote Humpty Dumpty. However, the fact is that while a rose by any other name would smell as sweet, Shakespeare, in making that observation, did point with unerring accuracy to one of the important characteristics of a rose—to wit, its smell. Similarly, a social scientist can judge the utility of a definition on the basis of whether it is or is not useful in pointing to the facts which he regards as significant—on the basis of whether it does or does not suggest an accurate and a complete picture of the variables to be taken into account. A useful definition of the term "power" will accordingly be one that evokes a picture of the world, or of the industrial relations world, that is accurate rather than misleading.

This paper is supposed to consider the contributions to the understanding of power that can be gleaned from the work of political scientists. My remarks are based chiefly on some ideas in the writings of Charles Merriam,[1] Harold Lasswell,[2] Herbert Simon[3] and Arthur Bentley,[4] for these are the political scientists who have dealt with the concept most fully and systematically in recent times. I should emphasize that there is no one, accepted political science point of view on the subject. These scholars' emphases vary, and they are not in full agreement with each other. There is, moreover, a strong school of thought among political scientists which takes the position that it is as well not to use the concept at all, largely because it gives rise to confusions and problems, some of which I will mention later.

These political scientists do not often apply their concepts to industrial relations. However, it seems to me that there does run through their work one important point of view which may serve as a wholesome supplement or corrective to some common uses of the power concept in the industrial relations field. I will discuss that point of view, although I recognize that this constitutes a wholly inadequate description of their various approaches, and that some of them might well object to some of the conclusions that I draw.

It is important to raise the question of what the term "power" often connotes as it is used by laymen and by social scientists, and especially by some students of industrial relations who have used it in what I am inclined to regard as a misleading or at least an oversimplified fashion. In the first place, the term "power" often connotes a thrust or force. It may be self-generated. It may connote an adversary force or resisting force, or at least an object which is acted upon. This mental picture of a conflict between two forces which interact with each other is evidently exactly the use of the term that is most commonly connoted by most of the references to it in the literature of industrial relations. It is the concept of power or of influence that one finds in the several postwar studies of labor-management relations at the plant level that have attempted to subject these relations to a quantitative analysis. It is, of course, a peculiarly tempting use of the term in the industrial relations field because, at first blush, most of the experts in the field, and virtually all the laymen who discuss it, are inclined to regard the parties—management and labor—as distinct entities with adversary interests, and perhaps the government outside them as a third force and itself a distinct entity. If that is a realistic picture of what happens, then, of course, it makes sense to postulate a dimension of the relationship involving conflict, call it "power" and measure it on a rating scale from one to ten—or from something to anything. All one has to do is to define "power" as ability to achieve goals that are opposed by the other party, or as freedom to act on a wide range of choices which the other party seeks to narrow, or some such formal definition, and then proceed to measure the extent of such actual achievement or such actual freedom of choice.

However, it is unfortunately true that everything we have learned about industrial relations, government or logic suggests that this view of the world, or even of the world of industrial relations, is a myth—a myth which often lacks the salutary social consequences that anthropologists have taught us myths often have, and one, indeed, that can be seriously misleading in the sense that if handled loosely it may lead to conclusions on the part of representatives of the parties, of government and of academicians that have unfortunate consequences.

---

[1] Charles E. Merriam, *Political Power* (New York and London, McGraw-Hill Publishing Company, 1934).

[2] Harold D. Lasswell and Abraham Kaplan, *Power and Society: A Framework for Political Inquiry* (New Haven, Yale University Press, 1950).

[3] Herbert A. Simon, "Notes on the Observation and Measurement of Political Power," 15 *Journal of Politics* 500-516 (November, 1953).

[4] Arthur F. Bentley, *The Process of Government* (Bloomington, Indiana, The Principia Press, 1949 (1908)).

To avoid misunderstanding I would like to emphasize here that I see nothing wrong, and much to be gained, from devising rating scales of the relative pressure of two conflicting organizational units so long as it is explicitly recognized that this is an artificial construct which may have meaning for limited purposes and for short time periods, and that it is necessary, when describing social dynamics, to place the findings of such analysis in their broader context of time and place. This latter point seems to me to be the major area in which political science can make a contribution.

While it is often obvious that a particular power relationship is lopsided, as of any particular time, it seems to me less important to define the extent of the imbalance precisely than to raise the question as to under what circumstances changes occur—in short, to examine the dynamics of the power system. It is true that a lopsided or other relationship may persist for relatively long periods too. However, a power concept that accounts for only this special case is of limited value in social science. The concept must be comprehensive enough to require the student to account for both persistence and change.

Before discussing the nature of a more adequate concept, it seems appropriate to raise the question of how the simple static, stimulus-response view of power or influence may in fact mislead those who employ it. What corollaries in the way of belief and action can follow from it?

From the perspective of the parties (labor and management), the corollary may follow that "the more power, the more chance of winning," with power measured in some such way as by the size of the unions' war chest, the number of its members, its ability to strike for a long period or its strategic ability to shut down an industry. Alternatively, the union's power may be measured by its ability to achieve higher wages, or a greater degree of union security, or improved working conditions. If power is measured in the second way, according to the ability of the union or management to achieve its goals, than the concept loses most of its analytical value because one learns nothing about the prerequisites for achieving goals. The proposition "the more power, the more chance of winning" becomes a redundancy. If power is defined in terms of resources that are available to the union or to subgroups within the union, the conclusion that greater resources mean more chance of achieving goals is quickly seen to be invalid in a great many situations. I want to dwell on this point at greater length in a few minutes. Let me simply point out here an example of what I mean. Governmental intervention is in a sense stimulated by the power of a union to achieve its goals. Successful unions bring talk of balancing, of the dangers of a laboristic state, and so on. So may public antagonism be stimulated; so may collusion between the union leadership and management be stimulated in some circumstances; and so may automation be stimulated. All of these may have countereffects upon union influence.

These examples involve introduction of the time element into the equation, and this is precisely the factor that some of the leading studies which postulate power as a dimension of the union-management relationship often forget. If experience demonstrates, as it does, that the exercise of influence in certain types of situations calls forth countervailing influence from sources that have hitherto been neutral or insignificant, then the concept of power, to be meaningful, must take the time element and these potential sources of countervailing power into account. If it does not do so, it may become an hypothetical exercise and not an analysis of the real world.

It is probably even more important, however, to consider the implications of this oversimplified view of power from the perspective of government. Government in this view becomes a balancing agent, a means of restoring the proper or desirable power relationship between the parties—the relationship of power that will preserve the public interest. It is not chance that the Wagner Act, the Taft-Hartley Act and many of the state labor relations laws declare in their preambles that it is the function of these statutes to restore a balance of power or equality of power between labor and management. Nor is it chance that proponents of restrictive labor legislation always begin their arguments by asserting that labor is "too powerful." Nor was it chance that the proponents of the Wagner Act began from the premise that management was at that time "too powerful." If there is a simple action and reaction between the two parties, and if power is a measurable entity that can meaningfully be placed on a rating scale as of any given moment of time, then it obviously follows that a balance is also definable in objective terms and that government should maintain such a balance or restore it once it has been allowed to lapse. The fact is, of course, that balance is not definable in any

objective way. Mr. Meany's view of a balanced relationship is not likely to be Mr. Curtice's view, or Mr. Eisenhower's view, or Mr. Seidman's view. The kind of legislation that is perceived by a majority of congressmen in 1935 as necessary to create a balanced or equal power relationship is not the kind of legislation that a majority of congressmen see as required for the same purpose in 1947. The term "balance" suggests a scale, but when we look at the way that the term is actually used in legislation, in political debates and in far too much scholarly analyses, we must conclude that in fact it refers to a norm, to a value, to a subjective evaluation on the part of whoever is doing the speaking or writing. In short, the term "power" and its derivative "balance of power" become a call to action—a means of communicating an alleged need to change (or to maintain) through governmental action the particular power relationship that exists at the time. The term is particularly and unfortunately misleading because of the very fact that it suggests that we have here an objective measure of something when we really have a subjective norm.

The complications I would like to introduce lie in the direction of suggesting, first, that the parties involved in this process (or, to put it another way, the groups seeking power) are more numerous and less permanent than this oversimplified view assumes, and, second, that power itself is a more complicated thing in social relationships than it is in physics.

Government, of course, is not a third force standing apart from the parties and balancing their relationships. Political scientists and sociologists, aided and abetted by social psychologists, have shown repeatedly that government is itself the interplay of many group interests and that they are the very same interests that play a part within the labor movement and within management, plus a great many others *not* directly concerned with industrial relations. Every governmental action and every public policy can most meaningfully be viewed as the resultants of the interplay of group interests, whether the policy stems from an administrator, an executive, a legislature or a court. Labor and management groups have of course, long since learned that this is the case, and that they can often expect different treatment from one governmental group than another. Their strategies are shaped, to a considerable extent, to take account of this fact even though their rhetoric and the rhetoric of too many academicians has not yet taken it into account. The power of various groups invested with public authority is to a considerable degree a part of, and an explanation of, the power of the parties themselves. The two are hopelessly intertwined, and influence is exercised within government and among various groups of governmental officials, and not simply from the parties upon government or vice versa.

The parties themselves are, of course, also composed of a great many group interests which rise and fall with conditions just as the groups that make up government rise and fall with conditions. A meaningful concept of power must take full account of the formal and informal relationships among these various groupings, and must take account of the alterations throughout the system occasioned by alterations in its parts.

The parties, however, are part of other systems as well. National and international price relationships, economic markets, value systems, and so on are all affected by each other in ways that economists, sociologists and political scientists are constantly exploring.

It would generally be agreed, I think, that power, no matter how defined, is inconceivable unless its wielders can exercise sanctions of one type or another. However, if a power system is seen in its totality as the resultant of many group interests and many potential group interests, it becomes clear that sanctions will under specified conditions be exercised *against* the wielder of power as well, often as an inevitable result of a temporarily dominant position. Power, far from being a physical force or an analogy of physical force, becomes a "web of rule," to use an apt phrase suggested by Kerr and Siegel[8] a few years ago. The web changes over time in ways that are often fairly predictable in the light of what the various social science disciplines have learned. This facet of the power system has been especially emphasized in some of the political science writings, notably those of Charles Merriam.

Mr. Merriam points, for example, to the forms of sanction that are likely to be wielded *against* the exercise of power; ill-will, creation of fear of rivals, low productivity, sabotage, malaise, organized and systematic opposition too widespread to be

[8] Clark Kerr and Abraham Siegel, "The Structuring of the Labor Force in Industrial Society: New Dimensions and New Questions," 8 *Industrial and Labor Relations Review* 151-168 (January, 1955).

disciplined, and organized opposition without violence.[6] All of these are familiar to us as features of our industrial system, both as beween labor and management, and within labor and within management. In a related and even more thought-provoking passage, Merriam speaks of defeat as a source of power, again emphasizing the network of relationships giving use to new interests and new power relationships. He speaks of international affairs but his point will strike us as obviously applicable to industrial affairs as well. "The hour of defeat and humiliation in international affairs may be the starting point for national solidarity, for the rise of a new enthusiasm for the group as a whole and its central purposes. Out of suffering and defeat there may rise unexpected resolution persisting toward the distant goal of later restoration and even triumph. Waves of invasion and periods of occupation . . . may serve only to unite the prostrate community, strengthen its determination, increase its willingness to utilize political methods for the recovery of its former position."[7] Given this kind of phenomenon, how is one to assess the significance of a measure of power based upon gains or resources as of any particular moment?

To turn to another example, corruption (or what Merriam calls "the shame of power") is to be regarded as potentially a feature of *any* power system, though not necessarily always realized. Corruption is especially likely to take the form of collusion with nominal rival powers if bureaucracies emerge on one or both sides as distinct group interests with independent objectives and sanctions, and relatively weak common interests with the rank and file. Such a development has rather obvious implications for the power of the organization as a whole vis-à-vis its nominal rivals, and obviously creates potential or realized conflict among groupings within the organization.

All this underlines the point that except in static situations hypothesized by academicians, power is not a measurable entity like physical pressure. One might as well talk of measuring the economy, or the political system or society, on a scale from one to ten, as of measuring power on a scale from one to ten or on any analogous measuring device. Herbert Simon makes this point in a passage that is worth quoting: "The habit of viewing a social structure as a network of generally asymmetrical relationships can help clarify some of the ambiguities that are commonly found in the statements of power relationships. This formulation teaches us that when we wish to speak of the influence of a particular element in a social system upon that system we must specify whether we mean the influence of the elements considered as independent, with all the reverse feedback relations ignored, or whether we mean the net influence of the element taking into account all the reciprocal influences of other elements upon it."[8] Mr. Merriam makes a related point with his customary rhetorical brilliance: "Power is never as forceful as it seems if looked upon as an institutionalized irresistibility. The unamendable constitution, the unappealable decision, the inexorable official, of whatever rank, may be found putty instead of granite if the right point is reached. Power is not strongest when used in violence but weakest. Rape is not an evidence of irresistible power in politics or in sex."[9]

How can a power system meaningfully be analyzed? It is probably well to begin with a formal definition of power that is found in the book by Lasswell and Kaplan. "Power," they say, is "participation in the making of decisions": "G has power over H with respect to the values K if G participates in the making of decisions affecting the K policies of H."[10] Lasswell and Kaplan go on to make two other pertinent comments about this definition. Power, they point out, is here defined relationally and not as a simple property. " 'Power over whom' is not yet a complete specification: there must be added 'in such and such particulars'." The definition and these comments seem to me to provide a usable starting point for the development of a research design for the analysis of a power system, even though some scholars, including Simon, have criticized the Lasswellian approach for various reasons that cannot be examined here. Especially useful is the inclusion in the definition of a restriction of the scope of power to specified values. A power system can usefully be defined to include the interplay of those institutions which can affect the allocation among competing groups of a particular value, such as, in the case of unions, income, power itself, security or leisure time.

Let us now take income as an example. If we are concerned with its allocation and

[6] Work cited at footnote 1, at p. 162.
[7] Work cited at footnote 1, at p. 50.
[8] Work cited at footnote 3, at p. 506.
[9] Work cited at footnote 1, at pp. 178-9.
[10] Work cited at footnote 2, at p. 75.

with the power over it of any organization or group, we must take into account as a very minimum of institutions which constitute part of the web of rule over it. For one thing, there are those relationships which we can describe in "shorthand" as economic forces: "shorthand" for human relationships of a particular kind. The influence of a union or of an occupational group within a union over workers' income is clearly molded by these forces. Government is another such institution playing its part in the web of rule, influencing minimum wages, maximum wages, prevailing wages, credit policy and many other policies which have a quite direct bearing, or sometimes an indirect bearing, on the influence of the union over income. The importance of wages to the employer as a cost factor and as a symbol are part of the web. The importance to the employees of wages in relation to other values are part of the web. The money, organizational capacity and loyalty available to the union or subgroup within the union are obviously part of the web. Each of these institutions has sanctions available to it in the form of ability to discharge and ability to create disloyalty which in turn may result in acts of sabotage, ability to strike, ability to vote, and so on.

All this means that an organization which fails to respond adequately to one of these institutions may be challenged or weakened by a rival which responds more adequately to them. The dynamics of each of these institutions is obviously complicated in itself and is the subject of a great deal of study and a great deal of understanding by economists, political scientists, sociologists and psychologists. Whatever any of these can tell us about such dynamics increases our ability to understand the web of rule, the power system and, therefore, the power of an element within the system. However, it makes more sense to make the limiting factor in a research design a particular value than to limit the design so that it comprises two hypothetically interacting organizations.

I do not suggest, of course, that I have identified all of the elements of the web in this case, for I clearly have not. Of a second order of relevance to those I mentioned, for example, may be the church and moral values, the mass communication system, and so on. All this comprises a political system, a power system. To talk about the power relationship between any two aspects is to ignore seven eighths of the iceberg while mistaking the remaining one eighth for a passing penguin. **[The End]**

Power and the Pattern of Union Government

By JACK BARBASH

The author is professor of labor education, University of Wisconsin.

THE OBJECT of this paper is to set out in the form of an analytic framework some of the power implications in the pattern of government of the American labor movement; or to put it another way, the power implications in (1) the relationship between the AFL-CIO as a federation and the national unions and (2) the power implications of the relationship between the national unions and the subordinate local union.

Democracy in the union is not within the main focus of this discussion because the concern here is with the *forms* of union government. Union democracy goes beyond forms into personal and group relationships. Moreover, an analysis of governmental forms must take into account elements which are not necessarily relevant to democracy, such as alternate roads to efficiency and effectiveness where the factor of democracy is constant.

The pattern of government of the American labor movement has three main reference points: the federation, the national union and the local union. Since the emergence of

the AFL in 1886, the federation has been viewed as an association of national unions, with a limited grant of power by the affiliated national unions. The national unions as a collectivity *are* the federation. This basic pattern was not fundamentally altered in the CIO or in the merged AFL-CIO.

The critical force in the American labor movement is the national union because of its control over the collective bargaining function, which is the mainspring of union influence in the United States. The local union in the constitutional theory of the American labor movement is an instrumentality of the national union and exercises authority under conditions determined by the national union constitution.

This state of affairs is a resolution of diverse historical tendencies pulling in contrary directions. On the one extreme the result would have been centralized authority in the association of unions, that is, the federation or its equivalent. On the other extreme, effective control would have been atomized among the local unions. The fact that the national union *has* become the focal point of the power structure of the American labor movement is due to a combination of economic facts and political-administrative theory. The dominant economic fact has been the nationalizing (as contrasted to local) of American economic life generally. The political-administrative theory is the idea that substantial power in the federation would be undemocratic and inefficient.

Trends in Relationship Between Federation and National Unions

Two major forces have been operating overtime on the relationship between the federation and the national unions: (1) the development of subfederation organizational forms and (2) the evolution of new concepts as to the proper role of the federation in relation to the national unions.

The role of the city and state federations as a source of power in the movement has steadily increased. Here the relationship is not so much with the national union as with the local union.

Labor's systematic interests in local legislation and policies have been intensified in recent years, and the state and local bodies are the major forums through which the affiliated unions assert their individual legislative and political interests. In many instances the unions seek to assert through the central bodies their organizational claims as against rival unions.

Technically, the city and state bodies are subordinate, not autonomous, bodies of the parent federation. In practice, federation leaders in the cities and states are likely to function with considerable independence just on this side, and at times even on the other side, of outright defiance of the parent federation.

The trade department—almost ignored in the formal literature—is another powerful subfederation influence within the labor movement network. Constitutionally a subordinate body of the parent federation, there have been many instances in which the leaderships of the federation and of the departments have taken different, if not conflicting, positions on jurisdictional and legislative issues.

The Building and Construction Trades Department, the Metal Trades Department, the Railway Employees Department and, to some degree, the newer Industrial Union Department have performed important collective bargaining functions on a collaborative basis among the national unions. The Building and Construction Trades Department is administering a comprehensive system of jurisdictional disputes settlement. The Industrial Union Department has taken over the organizational disputes machinery of the CIO.

The collective bargaining activities of the departments are significant in the light of the tradition that this phase of union activity has been pre-empted by the national unions. The departments, of course, have no collective bargaining function not explicitly granted by the nationals, but the departments provide a distinctive vehicle for coordinated collective bargaining.

The constitution of the AFL-CIO in effect gives the federation three main areas of influence in relationship to the nationals: jurisdiction, ethical practices and civil rights. The federation has still to exert sanctions with respect to the civil rights practices of its affiliates, although here and there it has acted as intervenor. Its chief activity in this area has been the creation of a climate designed to discourage discriminatory practices on the part of affiliates. With respect to ethical practices, the record is sufficiently well known and need not be recapitulated here except to observe that disciplinary sanctions ranging all the way from probation to expulsion have been enforced against noncomplying affiliates.

The immediate premerger posture of the AFL and the CIO as equal partners in the new federation has vitiated the idea of exclusive jurisdiction by recognizing in effect the existence of conflicting and overlapping jurisdictions. Moreover, the operative fact in determining rival union claims to workers under the no-raiding agreement is the established bargaining relationship rather than jurisdiction. It is not unlikely that the constitutional protection of established bargaining relationships will benefit the smaller unions which could not ordinarily protect themselves in a trial of strength.

This is not to say that the concept of jurisdiction has not been important. Its importance, however, has on balance been the moral restraint which it imposed on a union which otherwise could have exercised its claims to the full reach of its power and resourcefulness. This moral self-restraint, it should be added, has not been inconsiderable.

The major influence of the federation on jurisdiction has been the climate and machinery which it has created for the peaceful settlement of these disputes. The outstanding example has been the no-raiding agreement which antedates the merger but was a condition of merger. The role of the federation has also been important in seeking a viable method of resolving the rival claims of the industrial unions and the building trades unions. The prestige of the AFL-CIO president has been of importance in providing a forum for other interunion disputes. Something less than successful have been the attempts to encourage mergers of national unions with overlapping jurisdictions, or to work out a viable organizing program among unions with contending claims.

What are the contrasts with the past in federation-national union relationships? First, an acknowledgement that the federation has, in Mr. Meany's words, "invaded, to some extent at least, the autonomy of the affiliated unions." * Second, that in "ethical practices" the federation is more than a coordinating organization; it is an affirmative force in its own right. Third, the federation, for many purposes, is not a monolith but (to a degree) a number of countervailing forces.

Trends in National Union-Local Relationships

In general, the current trend has been for the national union to have a greater say in the terms of the collective agreement at the expense of any specific local union's prerogatives. The form which the centralizing tendency has taken has been the expansion in the size of the bargaining unit. Where the bargaining unit has not expanded, bargaining policy has been planned on a more inclusive basis.

The use of the term national union to define the locus of collective bargaining authority obscures the proliferation of governmental forms which we normally put under the umbrella of the national union. The traditional form of intermediate body is geographic in character—district, region, joint council, joint board, state councils—all with varying influence in formulating collective bargaining policy on a multilocal basis, the degree of influence turning in general on the market structure of the industry.

More recently the national unions, either on their own or under pressure from locals seeking more co-ordinated bargaining, have devised a variety of bodies which cross geographic lines. These intermediate bodies, variously called "conferences," "councils," "divisions" and "departments," are mechanisms for bringing together local union interests on a company-wide basis (in the case of a multiplant corporation) or on an industry-wide basis, and on an occupational basis (white-collar, professional or skilled trades, for example).

The intermediate bodies, depending on the circumstances, can become contending power centers in their own right in relation to the national union and in relation to specific local unions. The national union is, therefore, not simply a headquarters entity but is also a complex system of potentially (and, frequently, actual) contending forms of union government.

The law of local union government in national union constitutions does not fully reflect the flexibility and improvisation that characterize local union practices within any national union. Expediency, leadership and circumstances combine to introduce diversity in the ways in which local unions manage their affairs in relation to national union authority. The concept of law in union governmental relationships, it should be said, does not have the same force as it has in public law. The public administrator is characteristically oriented to a strict construction of his statutory authority. Union leaders tend to take a less rigorous view.

* American Federation of Labor and Congress of Industrial Organizations, *Clean Democratic Trade Unions* (June, 1957, Pamphlet No. 55), p. 10.

With respect to such collective bargaining issues as incentives, time study and job evaluation, and seniority, the range of freedom within which the local union in mass production industries operates is necessarily broad. The concept of "past practice," for example, in these situations introduces a substantial area of "give" in any multiemployer or multiplant contract. The grievance procedure is uniquely a local rather than a national union enterprise except possibly at the point of arbitration where precedent may be involved.

For the craft-oriented unions, initiative and power in jurisdiction still rest with the local union. One of the major reasons that jurisdiction is such a contentious issue in the building trades is the inability of the national union to enforce uniform jurisdictional standards.

The national union's role in the internal management of local unions appears to be largely in the nature of review and inspection rather than direction. The sanctions available to the national union range from recision to receivership. The most frequent function which the national union exercises in this connection is review of local union disciplinary actions, auditing of financial accounts and, in the case of receivership, direct administration of local union affairs by an agent of the national union.

Perspectives on Union Power

The critical issues with respect to the power implications of the forms of union government depend a good deal on the perspective from which these issues are identified. It is possible to locate several perspectives from which appraisals have been made recently. This statement of perspectives has to be brief, and I am aware that I am doing them less than justice.

(1) Expediency. This is the perspective, for example, of the employer on the receiving end of an industry-wide bargaining or pattern-bargaining arrangement who deplores the power of the national union in collective bargaining. There is the same expedient interest when the union officer rationalizes the concentration of wholesale power in the top officer in terms of the efficient and effective functioning of the union.

(2) Economic theory. This is the perspective from which certain economists and employers have asserted that centralized power in the labor movement provides the main thrust for wages to outrun the economy's capacity to pay. The merger of the AFL and CIO has thus been viewed as a road to labor monopoly.

(3) Democracy and due process. Political scientists and legal theorists adopt this perspective most readily and apply broad standards usually derived from public law. Generally, they will be critical of union judicial practices on the ground that the national union machinery does not provide for a genuinely independent review of local union disciplinary actions. They will also be critical of the extent of national union interference through trusteeships and receiverships.

(4) Public regulation. Those who look at the forms of union government from this angle of vision tend to rely greatly on public regulation of certain union activities. The extent of proposed regulation varies with the predisposition of the observer and ranges from disclosure to the prescription of substantive standards.

(5) The union as a going concern. This is the approach maintained in the present discussion; the labor movement as a voluntary association with a role and function consistent with a free society must be permitted the broadest possible freedom to devise its own forms of government subject only to a clear and present demonstration of an overriding public interest. Critical analysis of the use of power, from this perspective, must start with the union's function and role as given. The going-concern approach does not exclude, and on the contrary specifically takes into account, democracy and due process in the relationship between the levels of union government, because if the union is not a mechanism of representation, it is nothing. The union must therefore comply with standards of democracy and due process that are integral to its function and role—but the standard of criticism cannot be exclusively derived from transcendental thought or from public governments. Otherwise we might have an admirable exercise in a conception of democracy, but the union could not function in the way best calculated to serve its constituents.

While all of these other perspectives which I have identified make several cogent claims for consideration, I find them defective at the point of their main impact on grounds which for present purposes will have to be inferred from the general context of this paper.

Critical Issues

From the perspective which I have taken, the critical issues with respect to the exer-

cise of union power as between the levels of union government can be stated as follows:

(1) the effect of federation enforcement of ethical practice standards on the autonomy of the national unions;

(2) the effect of mechanisms for the settlement of rival union disputes on freedom of choice of employees to select unions of their own choosing;

(3) the extent to which a national union can call a jurisdiction its own;

(4) the effect of national union influence in collective bargaining on local self-determination;

(5) the impact of the national union on the internal self-government of the local groups;

(6) the effect on the employer and on the economy of the allocation of collective bargaining authority among the levels of union government.

The ethical practices standards of the federation represent for the most part a codification into trade union law of generally accepted moral sentiments. For the welfare of the movement they should have been given the force of trade union law earlier. In their present form the ethical practices codes and their application represent an unprecedented act of leadership. The only potential danger lies in the possibility that the codes may be used as an *excuse* for pervasive intervention into the affairs of affiliates for political reasons. I see no substantial grounds for considering this as a *real* danger.

The possibility that the federation will become a power monolith with respect to the public, employers or constituent unions is unlikely: first, because the collective bargaining function is and will continue to be the responsibility of the national unions and their subordinate bodies; second, because power in the federation is diffused; and third, because affiliates can always leave the federation, although expulsion at this time is almost equivalent to a stamp of illegitimacy.

The effect of internal no-raiding agreements on freedom of choice raises a rather more difficult question, and a judgment must ultimately rest on the alternative costs of internal warfare versus putative freedom of choice. I say putative because it is not clear to me that rival unionism in the United States represents, in general, deeply felt convictions on the part of workers. On the contrary, I get the impression that rival unionism, with a few important exceptions (wresting a membership from corrupt and Communist domination), is a synthetic product stimulated by nothing more than a desire for increased membership and prestige on the part of the union leadership that generates it.

The level of propaganda discourse which the contending unions characteristically carry on in a rival union situation is depressing, barbarous and frequently ugly. A serious question is raised as to how a movement can maintain itself as a cohesive force in the face of such disintegrating acts on the part of its constituent elements. The diminution of rival union contests generally is, therefore, all to the good. The destructive consequences of rival warfare deserve greater weight than the presumed restriction on the workers' freedom of choice. The individual's complete freedom of choice of a bargaining representative is subject to a wide variety of restrictions, and the question boils down to whether a restriction is a necessary one. Indeed the generally accepted principle of exclusive representation is a limitation of freedom of choice for some workers. The presumed restriction here is not unreasonable.

The national union undoubtedly has more influence in the negotiation of agreements than it had a generation ago. The effects of this trend have been exaggerated, however, because of two misconceptions: first, that the negotiation of the agreement is all there is to collective bargaining; and second, that the national union is an undifferentiated entity.

Collective bargaining is not only an agreement but the enforcement and interpretation of the agreement. The vigor of local influence in enforcement and application has remained essentially unimpaired by the centralizing tendencies in the negotiation of the agreement. Moreover, the representative mechanisms which have been devised to secure policy concensus in the "grass roots" of unionism has injected a large element of local participation even in the determination of the terms of the agreement.

In certain respects the national union is not doing enough in collective bargaining. Except for slogans, there are only a handful of unions that have a collective bargaining policy in any meaningful sense. Most unions have not asked the right questions, much less evolved answers, as to the effect of collective bargaining on the economics of the industries in which they are operating; nor have many unions undertaken a serious comparative analysis of their *own* contracts on an industry basis or multiplant-com-

pany basis. These are all problems which are properly in the province of the national union and are beyond the capacities and resources of the locals.

The quality of research, where it exists at all in the national union, is elementary. This, I hasten to add, is not necessarily a reflection on the researchers but on the limited role which is assigned to research by most union leaders.

Insofar as the attitudes of local union leadership are relevant here, there is a general feeling that the national union does not on the whole adequately service the locals, and the impression is that more, rather than less, is what is needed.

With respect to the issues involving national-local relationship in the internal management of unions, the major abuses, with a few exceptions, have turned on personal aggrandizement of power rather than abuses inherent in the structural relationship of national to local. Power aggrandizement has shown itself as prominently within the national union and within the local union, as it has in the relationship between the national and the local. The important exceptions with respect to several unions have been (1) the promiscuous use of receiverships in local unions, (2) the large, unreviewable powers exercised by certain national union presidents in the affairs of local unions and (3) the indiscriminate granting of local union charters.

There are areas of internal union management where there is reason to believe that a greater exercise of authority by the national union would be desirable; for example, more detailed supervision and development of standards in health and welfare administration and bargaining. This is particularly applicable to the situation in which the national union is otherwise not extensively involved in the total bargaining situation.

There is no a priori principle which can be specifically applied as to the relative allocation of authority between the national union and the local union. It is surely wrong to assume that local autonomy is always preferable without reference to the issues involved.

It is even wrong if the ground is that local control is necessarily more democratic. The test must always be the end to which control is being applied. It is perhaps possible to borrow the concept of the "appropriate unit" which, when applied to the problem at hand, can be stated as follows: The electoral unit which is involved in any decision must conform (to the extent possible) to the unit which will be affected by the decision on which concensus is sought. When a local union makes a collective bargaining decision which seriously prejudices larger interests in the union, these latter are to all intents and purposes being excluded from a voice in a decision on which (democratically) they have a right to be heard. When a local union engages in discriminatory practices against Negro workers or Puerto Rican workers, it may be imperiling vital interests of the other groups in the union, to say nothing about whether a majority decision of any kind which runs seriously against fundamental democratic values of the society can be democratic. The test of the democratic use of power then does not turn alone on the extent of local self-determination, but on whether the unit is inclusive enough to provide every affected group with an opportunity for participation in the making of the decision.

What is the effect on the employer and on the economy of the allocation of collective bargaining authority among the levels of union government? This is essentially the industry-wide bargaining issue, or for those who feel more strongly about it, the labor-monopoly issue. This has all been widely discussed in academic, popular and legislative forums. Not much more can be added here except to make a judgment for the purposes of the present discussion.

It is not clear that industry-wide bargaining (which is really inexact usage) represents an issue of principle for either management or union. Both unions and management are aligned pro and con on this issue, for their own good reasons, which is why this is a question of expediency rather than of principle.

The trend toward a more inclusive bargaining unit has, on balance, been to the good. It has enabled the bargainers to take a broader view of what they are doing than would otherwise be possible.

I find the use of union power as against management illuminated more by some of the things that I see around me than by statistics which purport to measure the effect of wage policy on prices and inflation. In the State of Wisconsin, which is not a right-to-work-law state, there are several well-established unions of the kind that are generally called powerful which have, however, not been powerful enough to get union security provisions in their contracts—from only moderated-sized employers. Moreover, the most impressive lesson that I have learned

from a daily association with shop union leadership, as a teacher of trade union classes, is that the chief problem in maintaining a functioning grievance procedure is the reluctance of rank-and-file workers to file grievances for fear of incurring management displeasure. This hardly squares with the labor-monopoly sterotype.

This is not to say that unions and union leaders are not capable of inflicting damage on employer interests and on the economy. However, to the extent to which this is true, it is not a function of the structure of collective bargaining.

Policy Implications

It is not wise or feasible for legislation—which is the implementation of public policy—to undertake to deal with all things that may be wrong or wrongheaded in the labor movement, or for that matter in any essentially voluntary association. The attempt to regulate the relationships among the organic bodies in any wholesale way would inject the state into union affairs on a scale that would destroy their ability to function as independent going concerns. This is a much greater evil than any of the alleged evils that now exist.

In any case the fundamental pattern in the forms of union government is, on the whole, well suited to the American environment, and I would seriously question the wisdom of such legislation.

Legislation may, however, be appropriately considered with respect to certain practices growing out of the pattern of union government that do legitimately raise a serious question of the public interest. The receivership practices of certain national unions may raise this kind of question. However, before a definitive answer is given as to whether the receivership issue is properly a subject for public regulation, there are some antecedent questions that need to be answered: First, what is the magnitude of abuse, since the receivership function in general is an entirely necessary sanction which should be available to the national union as a last resort method of securing compliance with the constitutionally authorized policies of the whole union? Second, can the internal processes of the labor movement adequately deal with the problem inasmuch as the federation has already demonstrated a capability for enforcing standards of proper trade union behavior, and inasmuch as the ethical practices codes refer to abuses in receivership practices?

Beyond this I would not go. I do not know how it would be possible to deal in statutory terms with the problem of wholesale concentration of power in the hands of the national union presidents in relation to the subordinate bodies. With respect to the powers which the union chief executive exercises that go beyond his constitutional authority, it would appear that judicial remedies are available.

Most of the vexing problems involved in the power relationships among the levels of union government will have to be dealt with by the labor movement itself. These problems do not all run in one direction. As has been indicated, sound administration will require greater authority in the national union, but whether greater or lesser, these are problems to be dealt with essentially through the movement's own processes. The response of the labor movement to fundamental challenges to its morality gives substantial ground for optimism that a viable response will be forthcoming.

When the large issues at stake here are distilled for their vital essences, they come down to big versus small. We tend to equate big with bad and small with good, and to some extent I suppose this is true. However, wherever our moralistic propensities may lead us, the fact is that most of the urgent problems of our society *are* big and the problems of the union society are big too. The problems can only be dealt with by big organizations. The real issue is not big versus small but what kind of bigness.

In an industrial society which is constantly having to face up to the dislocating forces of war and peace, of movements of industry, of wholesale technological change and of inflation and recession, only a broad, resourceful and informed attack will be adequate to the task. This requires organizational mechanisms with the capabilities of coping with problems on a large scale.

The unions cannot escape the consequences of this drive of events. There is no reason to believe, therefore, that there is any sensible alternative to the critical involvement of the federation and the national unions in main sectors of labor movement government and administration.

There *is* a real political-administrative problem, and that is the capacity of the federation and the national unions to enlist the morale and the intelligence of their constituents in a democratic and constructive fashion. **[The End]**

Factionalism and Union Democracy

By GRANT McCONNELL

Grant McConnell is associate professor of the social sciences at the University of Chicago.

DURING THE COURSE of the last two years the internal affairs of unions have come vividly to public attention. Although the problems which have attracted such widespread attention are of long standing, there now seems to be a general belief that some corrective action is necessary. In this belief there is a measure of hope for improvement in a genuinely serious situation, but there is also an equally serious danger of action that may prove misdirected.

With little question the current interest in the affairs of unions is derived from the recent and continuing exposures—under conditions well calculated to produce headlines—of graft, corruption and gangsterism. Certainly there has been little inclination to place these in their proper proportion or context. The public interest which has been aroused poses a rather serious dilemma: We may see either action which has an extensive (although presently indeterminate) effect and which may materially impair the private character of unions, or action which is exclusively formal and ineffective. The likelihood of action along one of these two lines seems strong and in either event a troubling problem is apt to remain with us.

There is a possibility that some legislative action will be taken that will treat a few of the evils which have attracted attention and that will not seriously hamper union privacy. Thus, a provision requiring stricter accounting of union funds will hardly prove a serious threat to the operations of unions. It will not, however, greatly mitigate some of the more fundamental evils of union governmental processes which have been conditions of the financial scandals which have been exposed. Professor Philip Taft of Brown University has said: "The existence or absence of democracy in labor organizations, however defined, does not appear to be the explanation for the continuation of all or even the major types of racketeering."

Granting that the explanation for this wider phenomenon is complex, as he ably states, it remains probable that a union with adequately democratic institutions and practices will be relatively secure against this evil. In a large sense the issue of gangsterism and corruption is related to the issue of democracy in unions. Moreover, it is also true that even in so far as these are distinct problems, the issue of democracy in unions is more important and more serious.

Professor Taft has indicated that much of the trouble in which some American unions now find themselves is rooted in their sharing of certain American values and ways of doing things—ways which are particularly prevalent in segments of the business world. It is in this sense that he is quite correct in rejecting any simple institutional reform. However, the apparently implicit suggestion that unions are without responsibility for the present perplexities can hardly be justified. American values are varied—even contradictory—and if one such value is materialism, another is integrity. Where too strong a valuation has been placed upon material gain by unions, a selection among American values has been made by these unions and they inevitably must bear responsibility for the choice. Moreover, the American labor tradition has commendably been at odds with some of the seamier aspects of American life and has often fostered a better, more honest and more austere code of behavior. This is not difficult to illustrate in operation among American unions.

Just as it is too simple to divest unions of responsibility for corruption in their midst on the ground that they reflect practice elsewhere, it is too easy to dismiss them of responsibility for inadequately democratic governmental practices. The American political tradition has divergent elements within itself and not all of these have been proved satisfactory. Here again the labor movement has developed American governmental

values selectively and an onus of responsibility is the inevitable result.

It is sometimes suggested that the government of unions is intrinsically similar to the Government of the United States. Probably this is a widespread belief—one that accounts for the assumption that if corruption and the actions of evil men can be extirpated, the inherently satisfactory democratic system will re-emerge. It is an attractive belief in that it suggests that the solution is simple, presumably by the straightforward action of Congress.

In actuality, however, a very striking divergence between the governmental systems of the United States and unions emerges when their respective institutions are examined. Perhaps the first trait of the Government of the United States is that it has a fairly rigid Constitution—one difficult to amend, although it can be gradually changed by practice and judicial interpretation. This Constitution places certain features of governmental operation and limitation in a special category in which they are protected against easy change by either leadership or popular whim. Trade union constitutions, on the other hand, are readily changed both by the terms of their own provisions and by the attitude which is generally adopted toward them. In fact, on occasion this has been presented as a point of superiority of union constitutions.

A second trait of United States Government, one of which we have recently become acutely aware, is the set of limitations provided in the Bill of Rights. Not all of the items in this are of equal importance, and some of the more important have come under serious attack. Nevertheless, many Americans have learned that this is a quite fundamental feature of the governmental system. Analogues to the Bill of Rights in trade unions are exceedingly difficult to discover. Very commonly, provisions which, when assembled, will stand as bills of obligations may be found, but guarantees of this kind for the members, and against their organizations and their leaders, are almost nonexistent.

Of slightly less importance in the American scheme of government is the separation of powers. This device is not wholly operative, certainly, but it does provide means of limiting the actions of government and it frequently so operates. This doctrine is apparently quite alien to trade union government. The highest governing body of a union, the convention, does have some points of similarity to the United States Congress, but it is inherently a quite different sort of body. A convention is not so organized as to be a check upon the executive. Examination of conventions in operation, moreover, has shown that they are highly inefficient devices for checking organization leadership even when this is attempted. While they might perhaps be endowed with some of the qualities of Congress, it is doubtful if union conventions can ever be made into much more than authenticating agencies for the actions of leadership and devices for the generation of enthusiasm.

The famous checks and balances of the United States Government have very few counterparts in union governments. Sometimes the executive council may be a check on the president, but this is exceptional and the theory of union government hardly contemplates that such a check should exist. The judicial systems of unions are likewise not organized to operate as serious checks and it is apparent that they are not intended to.

Federalism is present within the labor movement as in the United States. It operates differently in different parts of the movement and also is often different from its appearance in public government.

All realistic consideration of United States Government devotes close attention to the operation of the party system. The discussion which omits this feature is inevitably sterile and inaccurate. Here is to be found the dynamic element which does much to make the formal limitations of the Constitution effective and meaningful. This provides the most effective check on national leadership that we have. Within the trade union world, however, regular party systems are, with one exception, totally absent. The International Typographical Union's party system is a remarkably close parallel to that of the United States. It is impressive for having been the product of a long evolution within the common life of the union. The stories of both its origins and its uniqueness, however, emphasize how strange the concept of a party system is to the labor movement.

If these characteristics of government—all of them highly important—which are found in United States Government but which are, with few exceptions, not found in trade union government are considered together, it is apparent that the two spheres of government are founded on drastically different conceptions of democracy. Were time to permit, this difference might be illustrated also by statements from union

spokemen from John Mitchell to Walter Reuther. However, perhaps the point is by now sufficiently clear that here we see two entirely different traditions of government.

It would go beyond the scope of this paper to trace the antecedents of the particular democratic tradition which unions have followed in the development of their governments. Very briefly, however, it may be said that this tradition is one which has proceeded with little regard to constitutional limitations. It is founded primarily, if not exclusively, on the concept of majority rule. Although majority rule is also a primary principle of American public government, it is repeatedly and systematically checked, restrained and slowed by constitutional limitations. Within the trade union world, the underlying conception is that this checking and restraint is not only unnecessary but undesirable. If the governments of unions are the members' governments, restraints under this conception are undemocratic.

Pragmatically, I believe that we can now say that the faith that has justified the conception of democracy, to which I have so sketchily referred, is open to question. The present scandals are but the most recent evidence that the faith is questionable. It is quite clear that few of us would be willing to see the pattern of most union governments adopted for the United States. Nevertheless, there are very great differences between trade unions and the United States. It may well be unfair to measure union governments by that of the nation. Moreover, the evils within union governments now causing such concern are perhaps not themselves inherent qualities of pure majority rule. We have to ask, first, whether the outstanding differences between the situations of unions and the nation require or justify different conceptions of democratic government. Second, we must ask whether the current problems of union governments are curable within the context of the conception on which those governments are generally founded.

The first of the differences between unions and the United States is that the former are private organizations. The concept of privacy, although one that has never been fully explored, is one that is fundamental to the constitutional pattern of our large society. It itself marks a barrier beyond which we consider that public government should not pass. It is an essential component of our concept of freedom and an important device for our protection against tyranny. Trade unions have stood alongside other associations in defending their own privacy and in claiming exemption from state intervention in their affairs. This, as I indicated earlier, is a matter of genuine importance and union leaders are quite correct in raising the issue. However, a corollary to this distinction is that it shall be observed no less by the unions than by the state. In so far as unions have availed themselves of state coercive or near-coercive power, as provided in the terms of the Wagner Act for exclusive bargaining rights, state power has been accepted. This acceptance of state power is a compromise (not the only one), but its seriousness is a question which must be left open.

A trait of unions closely related to privacy is autonomy. Through much of labor's history American unions have carefully fought the issue of preserving their autonomous status. Often this has even been an assertion of autonomy against labor's own federations. Parenthetically, it may be observed that this aspect of the claim is itself related to the claim against the state in so far as it implies narrow constituencies and consequent preference for economic instead of political action. It is evident that, as with the claim for privacy, the claim for autonomy has to some degree been compromised.

A third trait on which unions differ from public bodies is that they have limited purposes. Quite commonly these purposes are considered to be the achievement of better wages, hours and working conditions. This feature of unions is important in several ways: first, in that it constitutes one of the constitutional barriers of our general society; second, in that it marks a limit beyond which the union leadership is presumed not to go in speaking for its membership. The point need not be labored that some unions have occasionally gone beyond the presumed limitations of their purposes.

Far more important than any of the traits so far mentioned, however, is the trait of homogeneity. This, closely related to the trait of limited purpose, is an assumption of likeness among the membership of any union—a likeness that extends wholly to the actual purposes of the union as demonstrated in its actions. Thus, there is presumed an identity of interest, of belief and sometimes even of taste and preference within the constituancy of the organization. Unions, like other organizations, go to some lengths to achieve this trait of homogeneity. They demand oaths of allegiance and the meeting of conditions of qualification, and they subject members to a measure of indoctrination.

In so far as unions achieve this particular trait, any restraint of a constitutional character upon union government is unnecessary and undemocratic. It should be clear, moreover, that in some degree this trait is actually achieved by all unions. However, it is equally clear that the trait is impossible of complete achievement and, in fact, that the degree to which it is usually achieved falls far short of the degree necessary in this conception of the union. Union members differ according to age, background, taste, political and religious belief, and on many other scores. They stand in different positions as they have a near or a remote prospect of retirement under pension benefits, for example. They often differ along the lines of different crafts or job-holding in different plants. In fact, the prospect for achievement of homogeneity of even the most narrow craft union dwindles the closer the problem is examined. If the presumed identity of interest between members and leaders in the most ideal union which we can find (whichever it may be) is examined, the problem assumes an acute form. Leaders and members inevitably occupy different situations and have different interests; moreover, these frequently diverge. In point of fact, the divergence of interest here is the problem that we have under examination.

The last trait of unions which may be selected for discussion here is that these are voluntary organizations. Thus, a union member comes as a supplicant. Moreover, the union member is at liberty to discontinue his membership whenever he is aggrieved or feels unjustly used. Thus, should there be any occasion on which he is aggrieved, despite the other presumed traits of unions that make unlikely tyrannical behavior by leaders, the member has the immediate and ready recourse of resignation. This quality of unions has been widely appealed to as providing the equivalent of the constitutional checks which we find in American government.

In many situations, complete or only slightly limited freedom to join or not to join, to remain or to resign, is available to workers. In many other situations, however, this freedom is far from complete. A freedom to resign may be something of a mockery if the cost of resignation is repudiation of the prospect of working in a given trade in an area which has been home to the individual. If there is the cost of renouncing paid-for friendly benefits, the actual financial cost may be serious. In so far as unions achieve their declared objectives of complete organization of their respective jurisdictions, this will be a very serious problem. The truth already is that to a quite important extent, trade union membership is not voluntary.

Considering these traits of union polity, then, it is apparent that, (1) trade unions generally and with few exceptions have governmental structures operating on a model which is materially different from that of the United States, (2) this model of trade union government is founded on a series of assumed traits that distinguish trade union polity from United States polity and (3) these assumptions are never completely true, but in fact are often seriously contrary to reality. The political theory on which trade union government is generally founded is, thus, less than satisfactory as a basis on which to formulate governmental institutions. To the degree to which the assumptions just tabulated do not accord with either fact or possible fact, democratic government derived on this theory will prove illusory.

It may be objected at this point that the principles illustrated by reference to United States Government, if applied to trade union governments, would unduly confine unions to a pattern which is not readily transferable. There are various other democratic patterns from which models less alien to trade unions may be drawn. In part, I feel, this objection has some validity. It would be unreasonable to expect trade unions to remodel their governments slavishly on the model of the United States. It would also be an unrealistic expectation that they should do so, or in the event that they tried, that the ensuing operation of government would be as planned.

Fortunately, however, it is not necessary that such close imitation be attempted. Neither an elaborate system of checks and balances nor a rigid separation of powers is essential to a solution of the problem. What, then, is essential to a solution?

The answer, in general, is that there must be a fundamental change of political theory within trade unions. In this sense, a great change is suggested and the problem perhaps appears forbidding. It is tempting to seek changes or solutions from outside the labor movement rather than to attempt a change in the theoretical basis of political life. Thus, for example, we are seeing many suggestions for recourse to legislation. Thus, also, we see other suggestions for providing substitutes for internal checks by private action of an external character. Clark Kerr, former president of IRRA, has suggested rival unionism, that is to say,

situations where unions are not merely overlapping but largely coincidental in their jurisdictions. He has also suggested that pressure from employers may operate to check union leadership where these act adversely to the interests of membership. Rival unionism has in a few instances served such a purpose. However, not only does rival unionism come under the proscription of "dual unionism," but there are also serious bureaucratic reasons for expecting little action in developing genuinely rival unions. Business pressure has, in the past, often gone quite beyond that needed to check union leaders and has operated to mitigate against union existence as well. For the present, however, the opposite difficulty with this solution seems greater—that collaboration between business and union leaders may take place at the expense of union members. Certainly we are not without contemporary illustrations of this. We are forced to return to a search elsewhere for minimum measures which will follow from and contribute to a reorientation of political thinking within unions.

The one essential feature which must be sought is the toleration of political opposition within unions. Political opposition in the form of parties is known only in the ITU. Nevertheless, there are many unions in which active opposition to established leadership does exist. Usually, this opposition comes under the term "factionalism." Sometimes this form of opposition genuinely threatens union existence. It may be hazarded, however, that fears of this kind of opposition are usually much exaggerated and are not infrequently the result of a subjective identification of union existence with leadership perpetuation.

The benefits which may derive from consistent factionalism are very great. For the most part they accrue to membership in situations where, as inevitably occurs in any organization, there is a divergence of interest between leaders and those led. Although there would seem no reason for us always to expect it, there is a likelihood that a stable factionalism will make for alert leadership and a more vital union program. The greatest advantage of a system of factionalism within a union, however, is that it provides an active guardianship of membership interests. Simple reliance on reform of constitutions may not produce constitutionalism in union government. It is very true that actual operation of any institution is usually different than the formal blueprint. Insurance of opposition via toleration of factions will be, then, the surest means of gaining what is important in constitutional government as found in any of the western democracies.

Although the insufficiency of simple change of constitutional provisions must be conceded, it remains true that some change of constitutional provisions is probably necessary as a condition for the successful operation of a factional system within unions. What, then, are the essential preconditions for a satisfactory factional system? First, some unions will need to remove provisions in their existing constitutions forbidding the criticism of leadership, circulation of political literature during election campaigns, provisions stating vague catch-all categories of offense, etc. Second, there need to be added a few simple guarantees that are essential to the security of political opposition. Primarily these are the guarantees that we find in the First Amendment to the United States Constitution. Freedom of speech, expression, press and the right of petition are fundamental to a free democracy. Certainly, the mere statement of these guarantees in a document is not enough; there must be an attitude of respect for them as well. Inasmuch as these have been conspicuously lacking in union constitutions, however, their formal insertion would seem of value. It is probably not irrelevant to add that some overhauling of union judicial systems would be of value in giving security to political opposition within unions. As these judicial systems now stand, they are formally founded on majority vote in conventions, bodies which are consistently manipulable by presiding leadership. Provisions guaranteeing honest and regular elections are desirable, but can hardly in themselves be relied upon for achievement of such elections. Beyond this, some formal limitations upon leadership power and authority are desirable. Nevertheless, the guarantees of freedom of speech and expression are the minimum essentials.

These guarantees, however, will be meaningless and the source of cynicism unless they are the outcome and the accompaniment of a fundamental change of outlook and political theory within the labor movement. Ways will be found to flout any merely formal declarations that do not emerge in such a way. Constitutional government is not merely government which refers to a written document. In fact, constitutional government is frequently found where no single document termed a "constitution" exists. This is the situation notably in Great Britain. Constitutionalism refers essentially to a set of limits and pre-

scriptions of process which are revered and observed. Probably in the American context, written documents are to be sought, but what is the prime essential is the general recognition that limits—whatever they may be in a particular organization—exist and must be observed.

The most important limit which union constitutionalism must adopt if its governments are to prove meaningfully democratic is tolerance of opposition. This implies that fairly wide scope of criticism of leadership must be accorded, and accorded without threat of personal penalty or reprisal that goes to suspension, fine or expulsion from the union. It implies that there must be a recognition of legitimate differences of interest and belief within the union. The second limitation which is essential in this general sense—and no formal provision can achieve it—is that there are bounds beyond which legitimate opposition cannot go. These bounds are in general those beyond which destruction of the union itself, or perversion of its functions, occurs. This limitation implies that factional contests must not be allowed to become wars to the death. There will be frequent temptations to place these bounds within too narrow a circle, and these temptations must be resisted. It would be good if an adequate statement of the location of these bounds could be given here. Such bounds, however, must inevitably be the outgrowth of experience and slow development. Given the present tradition of intolerance for opposition, the lesser risk is to make the circle of permissible opposition too large rather than too small.

In an ideal formulation, a program of reform of union governments would require the establishment of fully institutionalized party systems. Such systems, however, cannot be declared either by simple constitutional revision or by legislative fiat. Party systems are always the outcome of long and slow development. The most that can be hoped is that with a series of piecemeal reforms of a constitutional character and with a steady if gradual change of outlook based upon a better understanding of the governmental problem, parties and party systems will emerge from a tolerated factionalism. The factional materials exist in all unions; they are actually explicit in some. Their emergence can be confidently expected with the conditions which have just been outlined. That they can become party systems is suggested by the one example of party system that we have. If the unique character of this one party system seems to forbid hope for similar development elsewhere, it should be recalled that that one system appeared out of one of the most unsavory situations in the history of the American labor movement.

In one sense, this is a pessimistic analysis. It offers little encouragement to those who seek quick relief from present ills. It places the source of trouble in fundamentals of tradition and long-standing practice. Yet, to adopt any other approach, I feel, is to run grave risks either of shattering the barrier of privacy, behind which alone trade unions have any democratic merit, or of failing to touch the true problem of which corruption and gangsters are the superficial symptoms. The problem cannot be solved by legislation alone. It is the responsibility of the labor movement itself, and reform is ultimately possible only from within. **[The End]**

"PROFIT"

An interesting analysis of the term "profit" was recently made by the chairman of the Signode Steel Strapping Company. His article, which appeared in the company's employee house organ, follows in part:

"The word 'profit' is so familiar that most people think they know what it means. Few, however, really understand the vital role which profit plays in the economic life of our country. . . .

"Just as the size and profitability of our business today rests on our past profit-making record, so the growth over the next ten or twenty years will be affected for better or for worse by the kind of profits that we make in this and in succeeding years.

"I am quite sure that it is an essentially accurate statement that under our economic system, company growth depends almost entirely on the ability to make profits. . . .

"All of these remarks may seem rather obvious to some of you, but I know that many people unthinkingly believe that the American economy could run on and on without profits, and even that businessmen should apologize for making profits. The very reverse of this is true. The executives of a company should apologize for *not* making profits."

Topic: Factors Affecting Power Relationships in Industrial Relations
Chairman of Session: Milton Derber

Union Traditions and Membership Apathy

By BERNARD KARSH

The author is with the Institute of Labor and Industrial Relations, University of Illinois. He is grateful to Joel Seidman, Jack London and Daisy Tagliacozzo for many of the ideas presented here. An elaboration of this material is contained in *The Worker Views His Union* (University of Chicago Press, 1957), on which he worked with the above.

THE ASSERTION that membership apathy is one of the determinants of the local union's power potential needs no documentation here. The ability of the local to achieve its formal objectives, it is said, is bound up with the support which the local's formal leadership receives from the membership. A measuring rod, often used by management and other students of industrial relations to gauge membership support, is attendance at membership meetings—and the universal cry in the labor movement is that attendance is poor. Some legislators, as well as others, assert that rank-and-file apathy leads to the monopolization of power by a handful of leaders and, therefore, increases the possibility that these leaders will abuse their power grant. Corruption, racketeering and undemocratic practices are seen to be the result, at least in part, of membership apathy.

I propose here to examine some implications of such assertions by taking a look at a few aspects of the composition of the local union, its leadership, membership and functions. My remarks may be most applicable to the local in the manufacturing industry, particularly the large one, though I think a good case can be made for applying these comments to many building trades locals.

The word "apathy" carries a number of implications, at least as applied to understanding the operation of the local union. To describe the membership as apathetic is to assume, in the first place, that the membership is a relatively homogeneous mass with respect to their conception of the union and of unionism. It assumes that all members, by virtue of their status as members, have or should have an equal or relatively equal set of reasons for becoming members and, therefore, should have an equal or relatively equal obligation to take an active role in the government of the union, the formation of its policies and programs, and the successful achievement of the local's professed objectives. In short, we often assume, and certainly the typical set of local union leaders assume, that local union members qua members have or should have an undifferentiated set of motives for membership and obligations as members, and a uniform conception of an abstract union or unionism.

Rather than being a body of relatively undifferentiated individuals, each having by virtue of his status as a member a similar conception of what the union is all about and, therefore, relatively equally motivated in his behavior toward it, membership is differentiated in a number of ways. Obvious differences occur on the basis of age, skill, occupation, seniority, sex, family background, information about and experience with unions, and similar variables. These factors get summarily combined to produce a number of fairly distinct types of members, each differentiated from the other on the basis of differing sets of values with respect to unionism.

Seven types of local union members can be distinguished: (1) a fairly insignificant number of ideological unionists who see the labor movement as a vehicle for fundamental social, political and economic change in society; (2) a solid core of "good union

men" with whom I will shortly deal at some length; (3) a small group of members who, in most respects, are like the good union men but critical of either incumbent leaders and present policies or both; (4) a large proportion of "crisis activists" who, though accepting the union, by and large see it in a personal way as an agency to be used to protect and advance self-interest; (5) a relatively few members, in most part drawn from the skilled craftsmen, who accept the union but who adopt management's point of view to criticize some of its programs and practices; (6) a substantial number of "card carriers" or totally indifferent members; (7) on the outer fringe, a few unwilling unionists who, if left to their own devices, would not join a union, and if compelled to join would get out at the first opportunity.

Each of these types, and there may be still others, are ideal constructs or models and they differ from each other in their basic conceptions of an abstract union and the meaning which this word has for them. The crisis activist, probably constituting the largest proportion, is the fellow who hardly ever comes to meetings or volunteers for picket duty or committee work. He may or may not vote in elections, but he can be counted upon to present himself to his departmental steward when he has a complaint to make or to turn up at a meeting whenever an issue arises that he feels affects him directly and immediately. He would deny that his membership in the union obligates him to the same degree as the obligation faced by the leaders whom he elected. Like the card-carrier, or indifferent type, he may have come to the union movement almost completely ignorant about it or hostile towards it. He may subsequently learn that the union performs a set of functions which are useful to him, not in his status as a *union member,* but in his status as an *employee* of the company. He is interested in the union almost exclusively because it is for him an insurance policy against the day when he may get into trouble on the job.

The union, for this type of member, is essentially a policeman—a "cop on the beat" who is there in order to "keep the boss honest." He supports the union but without any kind of emotional involvement; he pays his dues willingly but views dues in the same way he views taxes which are collected to pay the police and fire departments. He hopes that he'll never have to call the cop (and even goes out of his way to avoid contact with him except when he's in trouble) and, similarly, he hopes that he'll never have need of the fire department. Essentially, he supports both as kinds of necessary evils.

The second most numerous type found in the local union membership is the card-carrier, the worker whose union membership is a matter of almost complete indifference. He is neither prounion nor anti-union; he joins because he has to. A compulsory membership clause or the pressure of co-workers has brought it in. He carries a union card but has no sense of duty or obligation; he is both indifferent and uninformed.

Unlike these types, which probably comprise the largest proportion of members, the good union man (usually the elected officer or steward) is devoted to the union. He understands its generalized goals in a historical perspective and accepts them fully. Ideally, he tries at all times to protect and advance the union's prestige and power. More than anybody else, he disparages those who are critical of the union or view it as an agency through which their own self-interest may be enhanced, or who are indifferent toward it. He particularly discredits fellow members who do not "assume their union responsibilities as I do." He, more than any other type, considers that all members have an equal obligation to be good union men. He often views the crisis activist or the card-carrier as somehow disloyal. In substance, he measures all other union members by his own standards, and when they fail to qualify he denounces their irresponsibility.

The good union man is the primary link between the historical tradition and values of the union movement and the present and future generations of workers and members. If the rank-and-file member knows any of his union officers, he is most likely to know his local union leaders, particularly his steward or grievance committeeman. Whatever sympathetic understanding he may have of the union movement is most likely to come in his contact with the good union man in his department. The good union man may have learned trade union values on a picket line or at the end of a policeman's billy club, or from an employer who paid substandard wages in exchange for a continuous speed-up and abusive treatment. It is in terms of these experiences that he came to the union movement and adopted its values. However, with the submergence of the depression-born militant unionism in

the economic boom of the past decade and a half, the core of good union men is increasingly becoming smaller and increasingly ceases to be the transmitter of the union's heritage.

Consider what has arisen in many places to substitute for the abusive employer or the good union man in recruiting and proselytizing the new worker, the young fellow just out of school. Presently when the young worker enters an employment office to apply for his first job (and this experience may be repeated on subsequent occasions), he is typically given a number of forms to fill out by the employment officer—the personnel man or clerk. Among these forms may be an application for employment, a social security form, workmen's compensation or other health or insurance forms, an application for membership in the union and a dues checkoff authorization card. He will probably be told that his application for union membership will take effect 30 days hence and that he must pay $5 a month to belong to a union he never heard of and, at best, cares nothing about. However, he may be told that he has to join and to pay in order to work. The personnel clerk may also give him an elaborate multicolored, very attractively designed brochure which contains a list of the many benefits he will enjoy as an employee—the insurance program for himself and his family (company paid, perhaps), a comprehensive medical program, a pension plan, a cafeteria where he can buy his meals at reasonable prices, a plan which pays him benefits supplementary to the regular state unemployment compensation should he ever be laid off, paid vacations and holidays, and so forth and so on. He is probably *not* told that many of these benefits may have been the result of a long strike which the union mounted five years ago. He may be shown the clean locker rooms and wash-houses but is probably not told that these kinds of improvements may have been the result of the constant pressure of the union. He is merely asked, as a condition of employment, to sign an application for membership in the union and a dues checkoff card. He has as yet no knowledge of the struggles and sacrifices which good union men may have made to win these benefits for him.

This is quite different from an earlier time when the newly hired was recruited to the union by a good union man. Nowadays, it is more likely that he'll be recruited to union membership by the company, not the union. Thus, there may be an immediate identification of the specific company as the bestower of all that is good, and of an abstract union that requires that he pay tribute for reasons which are not explained other than to join up and pay or look for a job elsewhere. At least two effects may result: (1) Our young worker gets the idea that the company is really a good outfit because of the high wages it pays and the many fringe benefits it gives and (2) in order to enjoy the company's beneficience, he must contribute to a union whose history, program, structure and function is vague, undefined and provides him with no specific guides for action. He may also get the notion that there is really no distinction between the union and the company anyway, since it was in fact an agent of the company that recruited him to the union.

The good union man in his department, as the principal link in the transmission of the union's values and accomplishments, is almost the only source of information that the new recruit has to establish the connection between the company's benefits and the payment of dues. However, our young worker's opportunity to interact with the good union man is infrequent and often ephemeral. It may only come when the new worker gets into trouble on the job. Since the cash nexus has already been established, he demands that the steward—the good union man—come through with a pay-off for dues collected. If the steward is unable to get him out of trouble, the new worker's identification with the union is even more tenuous than before. He pays his dues for nothing, he may feel. If the new recruit feels sufficiently disturbed, he may attend the next membership meeting only to be confronted with a bewildering display of what appears as endless wrangling, parliamentary confusion, long and irrelevant reports and communications, and maybe even a heated debate between factional opponents about an issue which he doesn't understand and is even less interested. An initial indifference or apathy may be reenforced.

Good union men are among the first to hold that members should play more active roles in policy formation and execution, and that this would make the union somehow more effective. Attendance at meetings is the crucial test. "He has as much of a duty to attend meetings and keep informed as I do," the local leader is apt to assert. "If he doesn't come to meetings, I'm not going to tell him what went on because

then he'd know and he'd never come around." When the good union man is pushed to suggest some number of members which is required to have a good meeting, his estimate is apt to vary anywhere from 20 per cent, rather than the present 3 or 5 per cent, to 40 or 50 or 60 per cent. When he's asked to explain why 30 per cent of the members, for example, is needed to have a good meeting (rather than some other figure), he runs into a wall. There seems not to be any logical reason. "It just seems good," he may say.

The problem of local union power does not turn on the number of people at a meeting but on *whom* they are. There is no magic in playing this "numbers game" The traditional value of participation is achieved if the *interests* of *all* of the members are represented. By and large this is what actually occurs.

The typical membership meeting is attended regularly by the elected officers, stewards, executive board members and committee chairmen. In the ordinary case, particularly when the local is composed of a heterogenous membership, many of the diverse membership interests are represented among the officers. Where local union elections are conducted on the basis of slates of candidates, the slate-makers are very likely to deliberately select candidates as representatives of particular interest groups. The political process in a local union is essentially no different in this respect from what occurs on our larger political scene. Thus, the solid core of routine meeting-goers is typically composed of the representatives of special interests inside the shop. Additional meeting-goers are typically drawn from the personal following of the elected leaders, a small number of workers who come to the meeting to plead special causes and an occasional chronic dissenter or curiosity seeker.

When a contract or collective bargaining item is scheduled to come before the meeting, the number present grows substantially. However, it is generally the crisis activists who now come. They do so in order to protect or advance their status as *workers,* not necessarily as union members. The point here is that the union, as an institution, has the professed goals of serving the interests of its members as union members and as employees. However, the rank-and-file member is not much interested in the professed goal of service to him in his status as a member. He is much more interested in the service he gets by virtue of his status as an employee of the company.

There is a real question as to whether the democratic ideology of the trade union movement, as expressed in its rhetoric, is compatible with its function in an age of mass unionism—of locals with many hundreds of members and diverse interests. In such locals the meeting of all members is as poorly adapted to an effectively functioning decision-making body as the New England town meeting is to the needs of the modern metropolis. Once more than several hundred persons and a large number of different interests are involved, it is no longer efficient—indeed, often impossible to transact business through mass meetings. The meetings of hundreds of people may serve other functions, like generating enthusiasm, demonstrating needs and loyalties, or transmitting information, but it is not a useful device for transacting business.

The simple fact is that a large proportion of members will not attend routine meetings because they feel no obligation to do so. The fact is that there would be no place to put them if they came, and that if a place were available the proper conduct of business would be impossible. The nature and function of the union meeting, shaped when the membership groups were small and homogeneous, need redefinition in an age of mass unionism. Indeed, it can be argued that the formal structure of government in the local union is a carry-over from an earlier time and is no longer appropriate.

One can conceive of the local union as embodying not one but two distinct governments, each performing a different function for which an appropriate structure has been built. One government, concerned with relations *within* the union, is formed to control the relationship between member and member. Its rules and regulations are provided in the constitution and bylaws. An executive board is elected to administer these rules and regulations. This government is essentially concerned with the worker in his status as a union member. The other government, concerned with relations with the employer, is symbolized by the collective bargaining agreement and the grievance procedure. Its functions are carried out by the stewards and the grievance committeemen who carry on collective bargaining. Essentially, this government

seeks to establish rules and regulations for the worker in his status as an *employee.* Though the personnel executing these two functions may overlap, their roles are different. The second government, for the most part, carries on its business at the work place where the members are found, and is structured formally as a representative government and enlists the support, participation and interests of the workers to a far greater degree than does the first government.

The local of such size that its members can no longer interact as members of face-to-face groups might do well to abandon the rhetoric of the mass business meeting, based as it is on the assumption of a homogeneous membership and equal or relatively equal identification with, conception of and obligation toward the union in all matters. Rank-and-file control and, accordingly, leadership responsibility to an electorate can better be achieved if workers meet for the discussion of issues in relatively small and homogeneous units such as departments. Action on the discussed issues could be taken through a body of representatives, each of whom was chosen by and responsible to a constituency of fellow workers. Since those who attend routine meetings are usually stewards or other active members who legislate with the interests and views of the workers in their departments in mind, why not recognize this and, accordingly, change the structure of the meeting. A formally constituted representative internal government, structured similarly to the formally constituted representative collective bargaining government, would not guarantee greater participation in decision-making. However, it might tend to safeguard the local against legislation enacted by a special interest group that packed the meeting or the domination by an organized minority that attended meetings regularly. It might also build into the system a formal channel of communication between the leaders and the members that is not now present except informally.

This raises the importance of keeping the membership informed of developments in the local. Often the officers insist that the meeting is designed to perform this function and that they have no further responsibility to members who fail to attend. This is another variation on the theme that members are undifferentiated and, accordingly, have equal responsibilities as members. Leaders who see the membership in their own image will usually insist that they have no further responsibility to members who do not come to meetings. Since few members do attend routine meetings, the result is usually a membership that is uninformed as well as inactive. Many devices are available to inform the rank and file—a local union paper which may be no more than a one-page mimeographed sheet, departmental meetings, locker room and lunch room informal discussions, and simply talking up the union in the shop might provide the member with an intelligent basis for re-electing or defeating officers at the next election. It may even persuade a card-carrier to become a crisis activist, on the whole a net gain. However, sometimes the good union man, in his zealous effort to safeguard the security of the union, as he sees it, is afraid to open channels of communication with his members outside the local meeting on the ground that the employer would learn too much about internal union affairs. However, the chances are that an alert management, with its many and diverse lines of communication, knows as much about what goes on inside the local as the leader does—maybe even more when his communication channels include a pipe line into the opposition group where it exists. The good union man might even be an officer in a local which elects inner and outer guards to the executive board, and he may still view the union as the semisecret body which in an earlier time required such guards to protect the business of the local from hostile eyes and ears. However, the business of the local union is now public business which operates with a grant of authority from a larger public body—a law.

When the good union man takes the position that the inactive or apathetic member can "stew in his own ignorance," he is likely to confirm the suspicion of the crisis activist or the card-carrier, however mistaken, that the local is a tightly controlled, close corporation, run by and for the "elite," the officers who have the company agents recruit him to membership, force him to pay dues to an institution he knows little about and doesn't understand, and who won't tell him when he does ask. The result, again, may be increasing indifference or increasing hostility.

The problem of communications and participation in the local's power structure and the matter of apathy all involve the following question: What kind of loyalty

When bargaining has been exhausted, when negotiation has reached a deadlock . . . arbitration stands ready to serve.

—J. Noble Braden.

does the ordinary rank-and-file member have toward the union or the company? Rather than possessing loyalty to both institutions, as some writers have concluded, a large number of ordinary members, labeled apathetic, may possess dual apathy. The crisis activist or the card-carrier, not to speak of the unwilling unionist, may see the union as an agency seeking to impose a set of values upon him and the company similarly engaged. He internalizes the original and professed goals of neither institution. A large proportion of factory employees work for the company because by doing so they are able to satisfy needs which arise outside the work place. Work is seen merely as a way to escape from the boredom of routinized, trivialized and repetitive labors. The worker who has this view, and the proportion is probably very substantial, may belong to the union because some day he may need its protection in an individual and personal way or because he is compelled to belong by the language of a contract whose meaning to him is obscured in complicated and legal terminology. He may belong simply because his fellow workers do and he doesn't want to be a deviate. In neither case does such a worker internalize the values of the union or the company. Each institution provides a different set of satisfactions for him; neither provides a value system with which he identifies himself or which he understands and accepts. However, he puts up with them and, hence, accepts them for reasons which are different from the values which each professes.

Studies of organization life have shown that running an organization generates problems which are not necessarily related to the professed or original goals of the organization. Indeed, the day-to-day behavior of individuals in groups becomes centered around specific problems and the achievement of immediate goals. These goals may often be different from the professed and original goals of the organization. Then, since these day-to-day activities come to consume an increasing proportion of the time and thoughts of the actors, from the point of view of actual behavior, the day-to-day activities become substituted for the intended goals. The highly abstract ideas intended to be conveyed by the notion of "unionism" simply do not specify sufficient concrete behavior to have very direct influence on the bulk of union members. The general idea of "union" may influence the action of members by setting the limits and defining the context for action, but only in a very general way. This is true not because the leaders or the ideals are evil or unintelligible, but because the ultimate ideals and the formal structures initially erected to effect the ideals are not very helpful in the constant effort of the worker to find proximate and immediate solutions to the specific problems which day-to-day factory living poses. Phillip Selznik has put it this way:

"Besides those professed goals which do not specify any concrete behavior . . . there are other professed goals which require actions which conflict with what must be done in the daily business of running an organization. In that conflict the professed goals will tend to go down in defeat, usually through the process of being extensively ignored." *

How many of the newer entrants into factory employment will develop the attitudes and ideal characteristic of trade union traditions? The union movement of the future will be but a pale image of the present one, let alone of the new unionism of the middle and later 1930's, unless ways can be found to reach the large proportion of members, presently discredited as apathetic, who operate with a value system which is a departure from the intended or original values of the trade union movement. These are workers who see the union not as an abstract ideal, but through the cash nexus of the union shop, the check-off and the pay-off, that is, the satisfaction of personal and immediate shop problems. The professed ideals of trade unionism will disappear through ignorance or become transformed to make them compatible with the value system of the apathetic—or local union power will increasingly depend upon the formal structure of authority and the appointed or elected officials who exercise that authority from points of power which may be even more distant to the rank and file than the local union. **[The End]**

* Phillip Selznik, "An Approach to a Theory of Bureaucracy," 8 *American Sociological Review* 47-54 (1943).

Management Looks at Power Factors in Collective Bargaining

By HARRY H. RAINS

The author is professor and director of industrial relations, Hofstra College, Hempstead, Long Island.

FOR MANAGEMENT the most important single factor affecting power relationships in industrial relations is what it considers to be the abnormal centralization of leadership powers of the national and international unions. Our problem is to separate *facts from fancy* and *reality from romance* so that we may objectively reappraise the labor union as a power mechanism.

We know that the labor union is a political institution, and like all political institutions it is subject to the pressures of change of interest, change of direction and the all important pressure which evolves upon political leaders to try to maintain themselves in office and power by one medium or another.

While the word "power" itself connotes force, there is nothing wrong with facing the fact that force or its potential use is the very lifeblood of the trade union movement. Reappraisal of the power element in collective bargaining is long overdue at this time. While public interest in such reappraisal of the labor union as a factor in our economy may be importantly sparked by the much publicized findings of the Senate Select Committee on Improper Practices of Labor and Management, there are even more major but less well-appreciated reasons for critical re-evaluation of the labor movement, its make-up and direction.

To those of us who become at all directly involved in labor-management relations it should come as no surprise that such relationships are basically an arena of constant battle. Labor-management relations never were and never will be a tea party. Even the most mature of collective bargaining relationships (and we tend to equate maturity of collective bargaining relationships in terms of an absence of strikes, violent picketing or uncouth behavior at the bargaining table) is fraught with the ubiquitous and constant power factor.

Power to strike, that is to withhold by collective action the contribution of labor, is not only indispensable to the union but also is indispensable to effective collective bargaining. Management, in its absence, would rarely be moved to make the compromises that are inherent in true collective bargaining. It would seem that a discussion of factors affecting power in industrial relations must relate primarily to the use and abuse of economic power at the bargaining table. Economic power in turn relates to the relative and comparative strength status of the union and the company. Abuse of power would lie in forcing settlement terms which were clearly unfair to either side—or in irresponsible resort by either party to work stoppages.

Experience has shown both management and labor the high cost of industrial disputes. Wages and business income lost in extended strikes are seldom recouped. Nevertheless, an important part of the annual fencing match in the bargaining arena must be given to the effectiveness of the illusions which each advocate tends to create as to their willingness or their ability to "hit the bricks" or, on management's part, to accept a shutdown as its response to what it believes to be inequitable or unrealistic economic demands of labor.

This is not to argue in any way against labor's primary objective and traditional function which is aimed at the improvement of living standards and the attainment of favored wages and other fringe benefits for the worker through the collective bargaining process. However, a first step in a critical re-evaluation should be the admission of the fact that the vast increase in the concentration of power in the hands of organized labor, which has developed through

its numerical growth under the umbrella of protection and affirmative aid provided by federal labor legislation, now requires imposition of checks and balances in the public interest.

It will be remembered that the Wagner Act adopted, as a national policy, the premise that the growth of organized labor must be aided and abetted by statutory aid and administrative action to the declared end that industrial strife over union representation rights would be thereby eliminated.

Clearly, the powers of organized labor and those of management required some balancing in the early 1930's when the normal bargaining pattern involved a large company pitted against a small union, with virtually unlimited financial resources available to the big company, including its unfettered resort to such unfair tactics as labor spying discriminatory discharges and the like. However, a single decade under the Wagner Act was sufficient to significantly change the picture.

By 1947, the Taft-Hartley Amendments providing for at least the filing of unfair labor charges against organized labor on various types of abuses of power were timely, if not overdue. While both the Wagner Act and the Taft-Hartley Amendments carefully preserved the all-important right to strike for economic purposes, in recognition of the importance of such power to the life of the collective bargaining process, there were now provided some controls over the abuses of labor's power when such power was improperly extended to parties who were not primary disputants.[1]

It is significant that even before the Taft-Hartley Amendments of 1947, which included the new restraints curbing labor's abuses, the courts held that labor's strike or picketing action was invalid whenever illegal means or illegal objectives were proven.[2]

The internal structure of the labor organization has become an important factor in power relationships. Today the actual or potential use of labor's power is complicated by changes in its structure which have taken place over the past 20 years, and in the potential threat which is posed by the concentration of organized labor's numerical strength in particular key segments of our industrial economy.

For example, consider the largest of the unions, the Teamsters, with approximately 1,600,000 members. Its highly centralized powers and chain of command stem from a strong national leader whose great constitutional powers pass down through regional districts and local district councils. Its membership almost without exception appears to be controlled on a political basis from the top and not through any democratic process within the union. The ability of this single union to virtually stop our total economy in a relatively short time by a strike in the transportation industry is beyond cavil.

The Teamsters' current top official, James R. Hoffa "announced at a meeting of the union's constitution committee, that if he was elected he would fight for an all-embracing council of American transport unions—air, land and sea—for joint action. 'You cannot have a one-city strike any more,' he said, 'or a strike in just one kind of transportation. You have to strike them all.'"[3]

In the same vein, Harry Bridges' commentary indicates labor's disconcerting awareness of its economic powers. "If the Teamsters and the two dock unions got together they'd represent more economic power than the combined AFL-CIO.

"They are so concentrated. An economic squeeze and pressure can be exerted that puts any employer in a very tough spot—and furthermore, puts the U. S. Government on a tough spot.

"If the AFL-CIO meets us head-on, we'd knock the stuffings out of them. We'd fight on their own ground and win."[4]

James B. Carey, president, International Union of Electricial, Radio and Machine Workers, predicted:

"Every other nationwide strike from now on will be not just a one-union strike but a strike of the entire American Labor movement."[5]

It may well be that the millions of words spoken for the record before the McClellan Committee and the hundreds of union leadership Fifth Amendment pleas have done more to point at the strength and abuse of internal powers of unions and their leaders than any other medium in the history of our country.

[1] National Labor Relations Act, Sec. 8(b)(4).
[2] *Mann v. Raimist*, 255 N. Y. 307 (Ct. App. N. Y., 1931). (Violent picketing enjoined as illegal means.) *Opera-on-Tour, Inc. v. Weber*, 4 LABOR CASES ¶ 60,474, 285 N. Y. 348 (Ct. App. N. Y., 1941). (Illegal objective enjoined.)
[3] *New York Times*, August 8, 1957.
[4] *Wall Street Journal*, August 1, 1957.
[5] *IUD Digest*, July, 1956.

Organized labor's top spokesman, George Meany, president, AFL-CIO, publicly admitted that "the grossly improper activities of officials of a number of unions disclosed at hearings of the Senate Anti-Racketeering Committee have included improper use of union funds, sometimes amounting to outright embezzlement, improper relations with employers, and various kinds of racketeering."[6]

Public interest in any matter of a general nature is capricious at best and rarely sustained. It has been said that there is an ever dwindling number of people who are concerned with the public interest.[7] It takes a great deal of demonstrated public interest to effect legislative change in the field of labor-management relations. The elected legislator appears to have an inherent and strong fear of alienating such an important segment of our population as is represented by 17 million workers and their immediate families. His fears have been augmented and perhaps developed by the persistent concept in the public mind which links love of labor with the desirable liberal label.

While very few people, even those actively engaged in labor-management relations as a professional endeavor, have read the actual proceedings of the McClellan Committee, the public press has served to keep alive in the public mind an interest in labor's powers and their abuse. Senator McClellan's current report, publicizing his findings in an article in the *Saturday Evening Post* of May 3, 1958, should provide broad circulation of his findings and recommendations.

This type of public airing of labor abuses should do much to overcome labor's traditional arguments that the union is a private institution and that it should not be subject to the interference of outsiders (labor includes even the government as an outsider whenever government deviates from a paternal line).

Labor's position with regard to its private nature is very similar to the position taken by private business in the middle of the 19th century, when management so strenuously objected to the passage of federal restrictive legislation designed to curb its monopolistic practices and other operations deemed contrary to public interest at that time. There can hardly be a question today, in the face of the record, that labor as an institution is fraught with great public interest and significance, and is very far from being a private or fraternal entity.

Even George Meany, labor's top official, admitted publicly the scope of informative disclosures of the McClellan Committee's hearings. "We thought we knew a few things about trade union corruption, but we didn't know the half of it, one-tenth of it or the one-hundredth of it. We didn't know, for instance, that we had unions where a criminal record was almost a prerequisite to holding office under the national union."[8]

Perhaps a comment on the ideology of union members as a group is in order. We are told, beginning with Samuel Gompers' own expressed philosophy, that labor in America is not a class of society, and that it is motivated not as an anticapitalistic movement in search of a revolution in our system of society, but simply and basically by what has been termed a "belly-philosophy" wherein its leaders strive to get more in terms of money and fringe benefits for its members.

George H. Hilderbrand notes:[9]

"Union members have always constituted a voting minority, never a united one. In the main their party loyalties have not been governed by their status as members of trade-unions. . . .

". . . durable unionism in the United States . . . has been built around the ideals of self-sufficient organization and collective bargaining and not upon a socialist appeal to all wage-earners as a class. . . .

"The unionism that emerged was . . . wedded to collective bargaining as the exclusive method of change, and frankly predicated upon a permanent acceptance of the capitalistic order."

The labor movement does not seek a labor party or representation in the legislature on a political labor label. It simply seeks to influence legislation by promising to reward the "friendly" legislator with its support and to impress upon the "unfriendly" legislator that he may expect labor's effective and articulate campaign against him. Of course, the definition of "friendly" and

[6] Radio broadcast "As We See It," December 1, 1957.

[7] L. Wolman, *Labor Monopoly* (National Association of Manufacturers, 1955).

[8] Address at the Second Convention of the AFL-CIO Industrial Union Department (*South Western Labor Record*, Tucson, Arizona, November 28, 1957).

[9] 58 *The American Journal of Sociology* 386-387 (University of California, Los Angeles, January, 1953).

"unfriendly" relates directly to whether the particular legislator votes for or against restrictive or favorable labor legislation, as the case may be.

In other words, to the labor leader all those who are not for him are against him. While the effect of labor's political activities for or against specific legislation, or for or against specific members of Congress, may be conjectural, the increasing degree of its activities, its expenditures of budgeted "public relations" funds and its usage of all communications media must have some impact on the actions and thinking of any congressman or legislator who hopes to return to office.

The *New York Times*, October 20, 1957, quoted the United Steel Workers' top leader, David J. McDonald, who commented on labor's political action: "I soon will propose to the international executive board that we subsidize union members to run for state legislatures."

In the same vein, President James B. Carey of the International Union of Electrical Workers, in a speech in the summer of 1956 at Rutgers University, stated: "More and more, the answer to labor's problems are political. What is true of labor is equally true of America. In such a situation, labor's political action will become increasingly important. I do not want our movement to be the tail to any party's political kite. I want it to be able to influence the political behavior of our parties. . . .

"Our job will take us into the community agencies, into local and state politics, into social planning, into the bloodstream of American life." [10]

The *Industrial Relations News Labor Supplement* for April, 1958, reported that during the Easter vacation, labor delegations paid visits to congressmen who had returned to their homes for the holidays. The delegations were armed with facts and figures about the unemployment situation in their particular districts and with arguments supporting the federation's legislative proposals. The *AFL-CIO News (April 5) called for more political action by union members to elect candidates in the primaries and general election who support the federation's program.* Many labor papers carry detailed box scores on legislation. Typically, the *Amalgamated's Advance* (April 15, 1958) banner headlines stated that "A tax cut now would put billions into the economy." It devoted two pages to antirecession measures and provided the names of Senate and House committee members concerned with them. *Textile World* (March, 1958) in a two-page article urged "Lobby—It's not a dirty word." The AFL-CIO public relations budget has been increased to over $1½ million and labor is speaking louder on political matters than ever before.

The extent of the effectiveness of labor's "reward or punish" tactics may be reflected in Congressman Ralph W. Gwinn's recent response to an inquiry by Charles R. Sligh, Jr. (vice president, National Association of Manufacturers) as to chances of passage of legislation "restoring law and order to labor relations." Congressman Gwinn commented that there wasn't the ghost of a chance for passage of corrective labor legislation, and added:

"First, you should know that labor—or rather the top officials of organized labor—dominate Congress; over 175 Members of the House have benefited from union contributions, free campaign help, radio, TV time, advertising, extensive publicity in the labor press, scores of voluntary workers furnished by the unions, doorbell ringers, telephone brigades and all the rest of it. Business organizations do none of this. Business as such is unorganized politically and therefore impotent.

"That's how much Congress had changed since 1947. Union leaders get men elected who agree with them and thereby force Government into improper activities. On the other hand business is not organized politically to restore and maintain the legitimate functions of government.

"We cannot rely on political parties to stop labor's political power. The parties feel compelled to court that power. Right now labor can muster more votes than either political party on labor and socialist issues. Labor spends little time in 'educating the public' or in talking to itself. It saws wood and elects Senators and Congressmen whose presence in the Congress makes impossible legislation to restore law and order in labor-management relations or to even think of repealing any part of the expanding socialism of the Federal Government. This administration is spending more to expand it than Roosevelt or Truman did." [11]

It is unfortunate indeed that the general public continues, to some extent, to identify a liberal position with a strong prolabor bias

[10] Daily Labor Report No. 151, August 3, 1953.

[11] Copy of letter written by Congressman Ralph W. Gwinn and circulated April 29, 1958, by Charles R. Sligh, Jr.

so that it takes a great deal of courage to attempt any critical analysis of the labor movement and the labor union. Even Senator McClellan, in his current magazine article "Racketeering in the Labor Movement," prefaces his writing with a personal urgent appeal to labor's leaders to at least read his report with an open mind. Senator McClellan expresses the hope "that these articles will be read by the thousands of honest labor leaders," and that as they read they will "lay aside for awhile ingrained ways of thought, to reflect with open mind, and to consider whether they, themselves, do not desparately need the power of sensible new laws to help them uphold the principles they stand for. I make this appeal because any legislation that Congress may pass, to be fully effective, needs the support not only of the public but of every honest influence in the union movement, from the rank and file to the top." [12]

In this connection, some quotations from Edward H. Chamberlin's most recent cogent work are here cited:

". . . forthright consideration of the monopolistic practices of labor unions' has been described as 'a hazardous intellectual venture,' which 'invites the label of a mid-Victorian reactionary,' and the *London Economist* has noted that in recent years, to say anything against trade unionism (in Britain) has been 'the mark of a crank.' [13] Yet the plain facts are that for anyone concerned with the preservation of free institutions the power position of labor has become truly ominous, that it has gone largely unrecognized, and that it cries out for analysis from a truly public, as distinct from a labor, point of view." [14]

If we pause to consider that our statutory protective legislation was designed to foster growth of organized labor, first, by requiring compulsory union membership and maintenance of membership as a condition of employment and, second, by placing within the hands of labor the ability to distort normal labor markets and create (through monopoly) artificial shortages of labor supply, we must come to a conclusion that the public interest does require a critical review of labor's powers.

Since a strong union implies more effective power at the bargaining table, the accretion of power in the hands of union leaders has, at least at its inception and on the surface, an acceptable, reasonable and bona fide basis. Clearly, the union member, whose primary interest in the union as an institution is its usage as an implement for his getting a greater share of the profit pie, cannot look too critically on labor leadership's assumption of centralized powers. The very structure of the national and international union is designed to facilitate centralized leadership power, particularly in the provision of staff services beyond the normal or reasonable reach of local union units. The development of a technical staff in law, economic research, communications and legislative lobbies are more effectively provided and financed through "head taxes" paid by individual local members through the channel of locals and district councils to the national and international offices.

Master contract patterns of bargaining, basic strategy on fringe benefits, new concepts such as supplementary unemployment insurance benefits and, more recently, a proposed share in management's decisions on prices of products and services are peculiarly within the province and domain of national union office staffing.

As the seat of strategy and broad policy decisions moves away from the local union level and the immediate parties to the bargaining process, the distortions and the inequities of labor power in their effect on wage patterns, fringe benefits and similar objectives of labor become more pronounced. An example of a national union's establishment of a bargaining pattern without regard to the equity or ability of different areas and/or different segments of industry to adapt to such pattern is provided by the recent steel industry experience. The Steel Workers Union developed and published, as a national policy, its intention of forcing the inclusion of supplemental unemployment benefit insurance (already achieved in the collective bargaining agreements between the union and the big steel mills) in the contracts of the many small steel fabricators located throughout the country. Such new type of fringe benefit was dictated by the national union officers as a union "must," in the local bargaining with the steel fabricators, regardless of individual company ability to absorb such fringe benefit cost or to pass on such cost to its customers, and regardless of whether such fringe benefit was desired by the rank and file of the local union member employees of the small steel fabricators.

[12] *The Saturday Evening Post*, May 3, 1958, p. 23.

[13] The *London Economist*, August 17, 1957, p. 520.

[14] *The Economic Analysis of Labor Union Power* (The American Enterprise Association, Inc., Washington, D. C., January, 1958), p. 7.

We might pause, parenthetically, to consider the destructive effect of further extensions of this type of fringe benefit concept which provides a supplement to government unemployment coverage. Labor now proposes that the combined payment of the government and the collective bargaining fund supplemental insurance would enable payment of 65 per cent of the concerned unemployed worker's regular pay for periods of up to one year. Such objective, if attained, would in effect eliminate the protective limitations imposed initially on such compensation by the legislature. In effect, what we then have through the union action is amendments to existing unemployment insurance legislation without the benefit of legislative endorsement or action, or the protective limitations placed on the government unemployment insurance program.

Specifically, when unemployment insurance was conceived and enacted, its objective was the providing of a cushion against the first shock or impact of cyclical mass unemployment. Its only justification was that the cushion purportedly provided against such initial massive economic shock. Legislation creating unemployment insurance benefits carried with it a built-in standard to insure that individual compensation benefits would be high enough to continue at least some purchasing of necessities during a period of widespread unemployment, but would not provide such compensation as to encourage unemployment as a desired status. Of course, other distortions in the original concept of such programs as unemployment insurance, the wage-and-hour law, the Walsh-Healey Act, workmen's compensation laws and similar labor legislation have developed over a period of years through the labor lobby's success in securing successive amendments without rhyme or reason other than labor's consistent drive for more favored treatment.

The concentration of monopolistic power in the hands of labor leaders through the changing structure of the labor organization and its chain of command and staff services, while it may result in the attainment of extraordinary high wage rates, carriers with it a loss of the democratic process and the powers of constituent members of the union. Whether the favorable wage rates, fringe benefits and increased work opportunity through artificial labor shortages created by the union are adequate returns for disenfranchisement rights of the members of the union is a moot question. It is a question that only comes to the public light when some few members of the union fall into disfavor, or seek to question the internal political control of their organization. For many workers, attainment of the basic objectives, high wages, fringe benefits and job security are an acceptable exchange for union leadership abuses of power. The development of "monopolies" in work opportunity and centralized or monopolistic leadership powers is a normal and natural development completely consonant with the basic objectives of the labor movement, but it does have public significance and interest.

United States Senator William F. Knowland (in an article which appeared in the March, 1958 issue of *American Mercury Magazine* ("Compulsory Unionism") and condensed in the May, 1958 issue of *Readers Digest* ("Why Not a Bill of Rights for Labor?")) made significant comments regarding the "monopolistic power of labor." He stated: ". . . just as monopolistic power in government cannot be countenanced by a free people, so monopolistic industrial or labor-union power cannot be allowed unchecked control over a vital segment of our national life. As a free people we must always be on guard against the concentration of excessive power in government, in industry or IN LABOR."

Dr. Clark Kerr, Chancellor of the University of California, in his booklet entitled *Unions and Union Leaders of Their Own Choosing,* which was published and distributed by the Fund for the Republic, stated:

"It is said by some that only the unions can scrutinize themselves; that it is not the proper business of anybody else because they are private, voluntary associations. The corporations said this once too and they were scrutinized. And the unions will be too.

"For, though they are private, their actions are clothed with the public interest; they affect wages and prices, the access of individuals to jobs, the volume and continuity of production, and many other aspects of society.

"Also, they are seldom really voluntary."

George H. Hildebrand, commenting on the accretion of power of the union official, stated:

"Power rests with the officials, and not with the rank and file. The officials hold the initiative, formulate demands, call strikes, conduct negotiations, and administer and enforce the system of rules in the collective agreement . . . ."[15]

[15] Work cited at footnote 9, at p. 383.

He further notes that when the worker joins an organized attack group such as a union, he passes on to the discretionary control of a new set of leaders, and that the union power group which such leaders represent has demonstrated a tendency to perpetuate itself by building dynasties upon well-entrenched political machines.

The union as a political institution appears to be following the moral pattern of all political institutions. Union leaders, like political leaders in general politics, appear to be fully addicted to the first rule of politics, which concentrates the politician's efforts toward his own perpetuation in office.

The use of the label "monopoly" in connection with the trade union and its leaders as an adjective of opprobrium is not realistic. Conversely, placid acceptance of the advanced status of concentrated power in the trades does not solve the public policy and interest questions which are raised by publicized abuses of labor power. It has been suggested that a new government agency, manned by eminent men drawn from the labor-management relations field, might provide a permanent review body with quasi-judicial administrative powers that could provide public insurance against abuse of labor or management powers in labor-management relations.

The voluntary adoption or, as an alternative, the provision by government agency of a neutral or "outside" arbitral board as a terminal step in internal union grievance machinery to resolve any disputes between the union member and the union would appear to provide corrective insurance against power abuse directed at the individual union member. An important precedent and admission of need is to be found in the United Auto Workers' establishment of such an arbitral board, manned by prominent public citizens with reputations for integrity and knowledge in the field of labor relations and the trade union movement.

However, the individual union member is not the only one for whom labor power poses a dilemma. Management has its confusions created by its own conflicting desire for "responsible labor leadership" at the bargaining table in terms of the union spokesman's power to make binding commitments, on the one hand, and, on the other, management's normal or at least public agreement that labor leaders should operate their organizations in a democratic fashion.

Obviously, no employer would like to see a labor leader act simply as a channel of communication of the rank and file worker's demands for wage increases or fringe benefits. Such abdication of the union official's leadership role could spell chaos for the employer entity. Somewhere between the two extremes, of course, the greater majority of all labor leaders fortunately find their true function as labor leaders in the conduct of collective bargaining within a framework of reason and common sense. The occasions of "killing the golden goose" are not common and are as rare perhaps as the other extreme where labor, on occasion, takes the attitude that it will not subsidize the continuance of marginal companies by what it considers to be substandard wage rates.

Any discussion of the factor of democracy in labor union operation as it relates to the accretion of power by labor leaders must include some comment on the peculiarities of attendance at organization meetings, which seem to follow the pattern of membership attendance in any type of organization—that is to say, percentages of attendance at general union meetings are uniformly low. Studies of membership attendance at union meetings appear to prove that a negligible number of the union members are present. It may well be that such a small minority are not representative of the seasoned or responsible elements of the membership. George Strauss and Leonard R. Sayles, in their documented report[16] on union membership attendance, noted:

"Low attendance at meetings has been a subject of much concern outside as well as inside the union movement. Critics of union democracy point to the small minority who attend as proof that these organizations are not controlled by their membership. . . .

"Most meetings start too late and last too long. It seems to be a well-established tradition in the labor movement for meetings to start from thirty to forty-five minutes late. . . . The meetings observed averaged three hours in length, although some went on for five hours.

"Indeed it is common for only a third of the members to stay until final adjournment . . . ."

The true economic status of union members in our economy rates consideration as a factor affecting the power relationships in industrial relations. In 1953, George H. Hilderbrand procured available data on the

[16] George Strauss and Leonard R. Sayles, "The Local Union Meeting", 6 *Industrial and Labor Relations Review* 206-207 (January, 1953).

labor movement which indicated that we were now clearly living in an "employee society," and that while the unionists remain a minority, "they were now substantially one with great influence." [17]

That portion of our salaried or wage class which is within the ranks of organized labor is no longer to be considered underprivileged since available data appears to show that they are employed in those industries which enjoy substantially higher wage rates than nonunion labor, which is primarily employed in geographic areas and industries which pay basically lower wage rates.[18]

Edward H. Chamberlin concluded, from his study of data as to where the income of union labor actually falls within the distribution for labor generally, that there were "strong indications that generally speaking trade union members today fall within the middle-income rather than the low-income sector of our society." [19]

The selfish interests of each union, even down to separate locals of the same national union as opposed to other union units, is a factor which affects collective bargaining power relationships.

The inherently selfish, but perhaps typically human, characteristics of each labor union as a separate entity to seek attainment of gains for its own members even at the expense of other union locals and unionists in the labor union movement is beyond dispute. Continuance of the evils of jurisdictional work disputes or conflict between unions over work assignments provides living proof of the point at which trade union "blood brothers" part company.

On a rather more obscure but just as cogent a plan of departure, one powerful segment of the labor movement may indirectly but importantly hurt less powerful and less fortunate members of the labor movement when it achieves wage gains which cannot be matched by the other union locals and which directly accelerate the costs-of-living increase pattern for all workers. Thus the worker employed in industry where labor's power is concentrated achieves his gain in income at the cost of lowering the real income of other organized workers employed in industry where the union's bargaining power is less or where the economic position of the industry does not enable equal increases in wage rates.

The real income of unionized workers in a distress industry, such as soft goods, suffers continuous blows when their cost-of-living rates rise without commensurate gains in wage rates. Meanwhile, their fellow unionists in more properous areas or industries increase their wage incomes, and in the process help initiate and sustain raised prices and raised costs of living for all workers.

The real dollar income of the nonunion wage earners, the self-employed, the unemployables, the pensioners and the great number of government employees who cannot look to organized labor for an increase in their income can be traced to labor for its vital part in raising the cost of living.

Of particular current significance is industrial management's concern with what appears to be the underselling of United States industry, in more and more fields, by foreign manufacturers. Our losses of such business has an increasing cost in terms of American jobs. The April 25, 1958 issue of *U. S. News & World Report* states that the foreign wage line is 26 cents an hour as against our $2.10—a spread in pay that worries United States business.

Roger M. Blough, chairman of United States Steel, speaking at Cleveland, Ohio, on April 17, 1958, said that the United States "will have to face up to one undeniable fact: that American workmen today are pricing themselves out of the market; or—to put it even more accurately—that America, as a nation, is costing itself out of the market." [20]

Along the same lines was a significant comment by Harold J. Ruttenberg, whose familiarity with the problem stems from his experience on labor-management problems from both sides. He was research director and economic adviser for the United Steel Workers under Philip Murray until he was hired in 1946 to run the Portsmouth Steel Corporation for Cyrus S. Eaton. Mr. Ruttenberg is currently president of his own company, the Stardrill Keystone Company. In a speech before the National Industrial Conference Board, reported in the New York *Herald Tribune* and condensed in the *Reader's Digest,* he stated with respect to organized labor's wage program and its contribution to inflation:

"Many of the increases in labor costs during the '30's and early '40's were made possible by the full utilization of productive capacity that was under-utilized before the war. But after the war the constantly rising basic wage rates and fringe-benefit costs could be offset in only three ways:

[17] Work cited at footnote 9, at p. 382.
[18] Work cited at footnote 9, p. 381.
[19] Work cited at footnote 13, at p. 4.
[20] *U. S. News & World Report,* April 25, 1958, p. 99.

"—By increasing productive efficiency.

"—By the efficient and full utilization of new capacity.

"—By increasing prices.

"Each time wage increases not justified by productivity are followed by price rises, the unions are plundering every American who lives on a fixed income: that is, all the millions who do not enjoy the privilege of having the increases in their cost of living automatically covered by cost-of-living wage increases. I do not believe that the companies and unions in the basic industries can long sustain their positions of insulation while the rest of the 173 million Americans are exposed to the ravaging effects of spiraling wages and prices.

"More than a decade ago I felt that unless the union's program was modernized, the labor movement would become the victim of the sterile, intellectually bankrupting influence of its own great power. *And so it has come to pass!"* [21]

Management's resistance to wage increases tends to be nominal in those industries where a high degree of unionization has tended to remove labor costs as an element of its competitive costs, and in those industries where increased production costs attributable to higher wage costs are quickly and easily passed on to the consumer in a production market where competition is not significant.

Philip D. Reid, chairman of the General Electric Company, in a recent speech at Philadelphia stated that some companies were "feeding inflation" by granting wage increases which went beyond increased productivity, *and he urged business firms to resist excessive pay increases in 1958.*

The perennial debate between management and labor over who is at fault in initiating increased costs of living seems to revolve in a meaningless circle of accusation and denial. The labor-oriented social scientist, who cooly concludes that the consumer public, as the "third party" to the collective bargaining process, can and will eventually control the situation and reverse the cost of living direction by his rebellion against high prices and embargo on buying products in the open market is symbolic of a kismet fatalism which is not acceptable to the workers whose employment is suspended, or the investors whose savings and capital are lost in the crash landings of cost-of-living flights. Neither does the "let George do it" solution of passing the tab to the government via emergency relief measures seem a safe, sane or equitable resolution. Economic history indicates that governments who buy the "pump priming" public endowment of consumer purchasing power theory and other related panaceas like the recently proposed tax cuts and accelerated "make work" public projects can fail when their funds and credit are depleted. There are admitted limits even for the public exchequer and the public debt.

An final note on the direction of labor power at the bargaining table calls for some comment on what management terms an encroachment of its management function. Each new gain of labor has elicited a loud outcry about the loss of management's responsibilities or prerogatives. However, it must be admitted that the field for increased encroachment by labor is dwindling and the movement of labor's interest now appears to be definitely in the direction of full co-management of industry.

Ralph Helstein, president, United Packinghouse Workers of America, in an address delivered at the Fourth Biennial Conference of the United Packinghouse Workers of America, AFL-CIO, September 30, 1957, stated that he believed "deeply that the time has come in America when the labor movement must assert the principle of co-determination. Representatives of labor, which after all is the majority of our consumers, should sit on policy-making boards of the corporation, so that we may have a voice, even if no meaningful vote, in decisions affecting pricing policies, products to be made, locations of plants and the speed at which automation will be introduced so that hardship and needless suffering may be avoided."

The shift of power in the administration of employee relations within American industry has constantly moved towards a sharing of authority between management and union officials. Management's discretionary authority on the handling of labor has steadily decreased so that today almost all aspects of the employment status of workers within bargaining units are determined by the terms and conditions incorporated within successive collective bargaining agreements.

Promotions, transfers, layoffs, dismissals, various fringe benefits, establishment of job content, changes in methods of production and, more recently, a decision-participation interest in pricing and marketing polices are

[21] *The Readers Digest,* May 1958, pp. 33-34.

all within the demonstrated orbit of interest and target area of organized labor.

Walter Reuther's current suggestion that the collective bargaining negotiations in the automobile industry include bargaining in limitations of the prices to be set on the automobile may perhaps be accepted in the future, despite management's current outcry over this clear encroachment on its special and exclusive domain of responsibilities and interest. It may well be that the "ultimate result may possibly be co-partnership in the full control of private enterprise." [22]

Some questions posed by George H. Hildebrand in January, 1953, appear timely and proper for repetition here as bearing on significant factors affecting power relationships in industrial relations:

"Is the rule-making process likely to check the rapid growth in productivity of American entrepreneurship and bring about stagnation?

"Will the unions employ their growing political power to bring about persistently inflationary policies and so contribute to the permanent state control of prices, wages and industrial relations, weakening thereby their own independence as 'secondary powers?'

"Will the spread of unionism mean the growth of giant bureaucratic empires, dominated by self-perpetuating groups possessed of unrivaled economic power?" [23]

Business profits and investments are factors of exceptional significance at this time. Reputable studies of a representative sampling of 610 manufacturing companies show declines of 16 per cent in the fourth quarter of 1957 as compared to the fourth quarter of 1956.[24]

The May, 1958, *Fortune's* business round-up figures predict that the net profit for 1958 is apt to be down 10 to 15 per cent from 1957. The cause for the fall in profits and profit expectations should be a matter of primary concern to all who are affected by the current recession. It would seem beyond denial that an important factor involved in the current business recession has been, and continues to be, the upward thrust of wage costs. Hourly manufacturing wage rates advanced from $1.80 in January, 1954, to $2.10 in January, 1958, and fringe benefits increased on a similar comparative percentage basis:

"Reporting on a survey of deferred increases, escalator raises, and negotiated wage settlements during 1957, the Bureau of Labor Statistics concludes that wage increases that went into effect in 1957 were substantially larger than those that became effective in 1956.

"The survey was limited to major contracts—those covering 1,000 or more workers. *But these contracts covered some 7.6 million* workers. As an over-all finding, BLS notes that wage increases of at least 11 cents an hour went into effect for about three out of every five workers in 1957, as compared to two out of every five in 1956. About 4.9 million of the workers covered by the survey received 1957 increases under long-term contracts executed in earlier years." [25]

According to a New York State official report:

"Raises averaging 10.5 cents an hour were granted in 69 December settlements affecting about 59,900 workers. Changes in fringe benefits were provided in 78 percent of the settlements. In the last half of 1957 an average raise of 11.1 cents an hour was reported in 597 settlements covering over 478,500 workers. Changes in fringe benefits were made in 67 percent of the July-to-December agreements." [26]

In a weekly labor memorandum from New York it was also reported:

"Raises averaging 9 cents per hour in 52 settlements covering 42,640 workers in New York State in February." [27]

Another such memorandum stated:

"Average raise 8 cents per hour in New York State in January, covering 83,235 workers in 56 settlements." [28]

A survey of wage settlements in the construction industry during the first three months of 1958 shows a continuing trend toward higher wages and fatter fringes. The average first quarter increase was 17.8 cents an hour as against 16.1 for all of 1957.

A March publication stated:

"Lumber and sawmill workers union will seek 31¢ an hour package wage boost for all its members in 11 western states. The increase amounting to about 13.3% would

[22] Work cited at footnote 9, at p. 390.
[23] Work cited at footnote 9, at p. 390.
[24] March, 1958 letter, National City Bank.
[25] Labor Relations Reporter, April 28, 1958
[26] New York State Department of Labor, Division of Research and Statistics, *Collective Bargaining Settlements* (Vol. X, No. 12, February, 1958).
[27] New York State Department of Labor, *Weekly Labor News Memorandum*, Vol. XIII, No. 16, April 16, 1958.
[28] New York State Department of Labor, *Weekly Labor News Memorandum*, Vol. XIII, No. 12, March 19, 1958.

boost average wage to $2.64 hourly from present $2.33." [29]

According to an April issue of the same publication:

"United Steelworkers is unlikely to forego deferred wage hikes for more than 500,000 members on July 1, despite depressed industry conditions. The hope of some steel companies that United Steel Workers will agree to skip scheduled pay increases (expected to cost firms about 20¢ per hour per employee) on July 1 under terms of 3 year contract signed in August, 1956 was deflated at union meeting this past week. Describing such a wage freeze as 'suicidal', United Steel Workers Associate Research Director Marvin Miller declared: 'Wages are too low, and purchasing power is inadequate.' A wage freeze would worsen the present economic picture." [30]

Wherever possible, and as long as possible, management has passed on the increased wage costs to the consumer in the form of higher product prices. The steady advances in wage costs and product prices have priced goods out of domestic and foreign markets.

Producers caught between the pressures of rising wages and the shortage of *hard* money or ready investment money have reduced, and will continue to reduce, plant investments *and employment commitments.*

The bland admission of some labor economist and labor spokesman that periodic unemployment for some of its members is the calculated risk incidental to the even higher hourly rate objectives of organized management appears unduly calloused and in contradiction and inconsistent with the indicated new job-security bargaining targets. Evidence of labor's increasing emphasis on weekly wages, various forms of "true guaranteed annual wage" plans, extension of the supplementary unemployment benefit plans, basic crew provisions and related forms of employment security devices at the bargaining table spell out labor's desire to have the cake of higher wage rates and not eat it.

However, the price spiral will not be checked by unemployment until there has been a considerable and possibly prolonged business recession. The lag between unemployment and price reductions accounts significantly for our current recession and paradoxical continued increase in cost-of-living index figures.

A further sharp rise in wages, which seems to be the current trend, as evidenced by statistics of collective bargaining settlements in past months and in the declared objectives of major unions could only be disastrous in the face of our present admitted business recession. The AFL-CIO federations report:

"In general larger, rather than smaller wage rates are needed during economic recession to bolster buying power and generate business upturn." [31]

Some comment on the disparity of effectiveness between the trade union and the employer trade association, as respective representation power mechanisms in the collective bargaining process, is germane to our discussion of power factors. Multiemployer trade associations generally suffer from basic, inherent and perhaps incurable obstructions to their consistent effective action as an industry-management representative at the bargaining table. The fact that the association members are in direct business competition with each other and are united only on such limited periodic problems as labor-management relations tends to prevent true unity of action. Other impediments to employer solidarity stem from differences in size, economic strength and owner personalities of the component members of the employer group.

Benjamin M. Selekman, in a recent article on trade unions,[32] urges labor to recognize the dangers of public disillusionment which may in time produce drastic restrictive legislation. George Meany summed up his comments on the McClellan Committee labor corruption findings with an expressed opinion that "there is rather more justification for public resentment at this time than there was in 1946." Clearly labor itself has not been able to apply a brake to the momentum of its wage demands. Here and there a rash or possibly brave "labor statesman" may attempt, with great personal risk to his reputation, to suggest a voluntary moratorium on labor's wage demands, but such exceptional gestures appear doomed to end in recantation or public admission of error. The experience afforded by a suggestion of Richard Gray, president, AFL-CIO Building Trades Department, last December in Atlantic City, for such a moratorium to the

[29] *Industrial Relations News,* Vol. VIII, No. 12, March 22, 1958.

[30] *Industrial Relations News,* Vol. VIII, No. 16, April 19, 1958.

[31] *Industrial Relations News,* Vol. VIII, No. 17, April 26, 1958.

[32] 36 *Harvard Business Review* 76 (May-June, 1958).

building construction trades unions is illustrative of this point.

The CIO's philosophy of "pump priming" and rationalized argument that a rise in wages will augment consumer purchasing abilities to the extent of solving the business recession has had more than ample opportunity to demonstrate its fallacious base. An alternate panacea of government support for wage, price or credit controls is not urged here. However, it is submitted that our experience with labor's usage of its enormous accretion of economic power justifies the development of government controls designed to curb labor's abuse of power. Continuance of a special monopoly-power status for organized labor by protective government legislation and the extension of antimonopoly law exemption to labor may no longer be justified. **[The End]**

Some Factors Affecting Power Relationships in Labor-Management Relations

By DANIEL SCHEINMAN

The author is a labor relations consultant, Peoria, Illinois.

THE THEME of the Seventh Conference on Science, Philosophy and Religion, held in 1946, was stated in the following significant terms:

"Western culture . . . bears as one of its most characteristic features an emphasis upon the power element. . . . To date one of the most effective means of energizing the peoples of the West remains the hunger for domination and prestige.

"How can we retain the essential advantages of our civilization, including its scientific and material assets, and yet bring the quest for power and the tendency toward aggression under control? Can we reorient men's minds, through influencing their cultural environment from infancy, so that they will find fulfillment in achievement, rather than in the credit and recognition of achievement?" [1]

To do justice to the subject of power in industrial relations would require an examination of our entire culture pattern because industrial relations encompasses the entire gamut of social, political, economic and scientific institutions within which relations in industry are conducted. Fortunately, my assignment is more limited and I shall attempt only to point out a few of the significant aspects of power in industrial relations, culled from my observations and experience as a management representative in this field.

Important manifestations of power are still to be found in the day-to-day relations between management and worker in the factories as reflected in modern personnel programs and in the administration of labor agreements. Knowledgeable people have recognized a virtual revolution in the shops of America, not only in their technological but also in their social and economic aspects. The change from master-servant status to the status of almost-equals and the growth of democratic institutions in economic life is one of the most significant changes in power relations. The areas of joint consultation and joint activity between management and labor have multiplied so greatly that in many of these areas serious problems have arisen when appropriate levels of responsibility have not been forthcoming. Our institutions and techniques of administration have not, in many cases, kept pace with our ideals. Because of the rapidity of the changes occurring, perhaps we should not be too critical of the great efforts made by both management and labor to develop the many new institutions re-

[1] "Conflicts of Power in Modern Culture." *Seventh Symposium, Conference on Science, Philosophy and Religion in Their Relation to the Democratic Way of Life, Inc.* (New York, 1947), p. VIII.

quired and the appropriate accommodation to changes in degree of responsibility and authority in their intimate day-to-day relations. The fact that this revolution has been occurring at the same time as we have witnessed the vast outpouring of new products, expansion and utilization of significant increases in productive capacity and introduction of great technological improvements, is a credit to both management and labor.

However, it is in the area of collective bargaining that the impact of changed labor-management relations is most direct, and it is here that power relations between the parties meet head on.

In this country, voluntarism has been a cardinal principle in collective bargaining. Labor-management relations have been regarded as a private affair to be conducted by the representatives of labor and management. The basic framework of relations between the parties is set forth in the Taft-Hartley Act. To be sure, restrictions are placed on both of the parties in their relations with each other. The major emphasis and basic purpose of the act, as set forth in the Preamble, is "to promote the full flow of commerce" and to avoid or minimize "industrial strife which interferes with the normal flow of commerce and the full production of articles and commodities for commerce."

Only in the provisions of Title II of the act pertaining to national emergency disputes which might imperil the national health and safety—and these have been defined narrowly—are there clear provisions pertaining to the public interest in labor-management relations. The public interest is confined in the act largely to the avoidance of disputes between the private parties, and the mediation function is set forth as a means of assisting in avoiding private disputes. Generally the public interest, as reflected in legislation, is not supposed to be concerned with the economic provisions of the collective bargaining agreement relating to monetary or nonmonetary matters. Market forces are presumably relied upon to provide "natural" controls over these matters.

One interesting illustration of the limited extent to which the Taft-Hartley Act protects the public interest is reflected in a report on the recent oral argument before the United States Supreme Court on the validity of the hot cargo clauses.[2] The NLRB attorney was arguing that Congress intended to protect customers and the public generally as well as the secondary company affected by a hot cargo clause. He claimed that, under the Taft-Hartley Act, Congress did not intend to let the company contract away the rights of the public to be free from secondary boycotts. The Teamsters' attorney claimed that the legislative history of the act showed no such intention to protect the public, and pointed out that the act permitted strikes and other activities without regard to their effect on the public. It was clear that if the sole intention of Congress in banning secondary boycotts was to protect innocent secondary companies and not the public, there would seem to be no prohibition against such companies' voluntarily contracting away their rights.

The argument seemed to be too much for Justice Harlan to take and he said to the NLRB attorney:

"You've got to fish or cut bait. It's a very odd position in this field to have a contract that's unenforceable. Why do you shy away from saying these contracts are against public policy?"

The attorney replied rather candidly: "I don't have a board [NLRB] majority."

Even in an area in which special provision is made for expeditious injunctive relief, it is not clear whether the act intended to protect the public interest or only the interest of the private parties.

---

[2] *New York Times*, March 13, 1958. Since this paper was delivered the Supreme Court has issued its opinion on the hot cargo cases. (*Carpenters and Joiners of America, Local 1976 v. NLRB*, 35 LABOR CASES ¶ 71,599.) The following paragraph in the opinion is pertinent:

"From these considerations of what is not prohibited by the statute, the true scope and limits of the legislative purpose emerge. The primary employer, with whom the union is principally at odds, has no absolute assurance that he will be free from the consequences of a secondary boycott. Nor have other employers or persons who deal with either the primary employer or the secondary employer and who may be injuriously affected by the restrictions on commerce that flow from secondary boycotts. Nor has the general public. We do not read the words 'other person' in the phrase 'forcing or requiring . . . any employer or other person' to extend protection from the effects of a secondary boycott to such other person when the secondary employer himself, the employer of the employees involved, consents to the boycott. When he does consent it cannot appropriately be said that there is a strike or concerted refusal to handle goods on the part of the employees. Congress has not seen fit to protect these other persons or the general public by any wholesale condemnation of secondary boycotts, since if the secondary employer agrees to the boycott, or it is brought about by means other than those proscribed in § 8(b)(4)(A), there is no unfair labor practice."

In many other countries the public interest in labor-management relations is protected by much more detailed and comprehensive legislation regarding the scope and extent of collective bargaining, and the actions of the private parties are regulated more extensively. We rely on "public opinion"[3] to provide adequate sanctions against acts by these private parties which might be inimical to the public interest.

How effective is "public opinion" in controlling legal acts of the private parties in labor-management relations which can have grave consequences for the body politic and our entire economy? From my observations and experience, I conclude that public opinion in this field, as in many others, is not very effective in protecting the public interest. In practice, public opinion has become fair game for the private parties. It has only resulted in introducing another weapon in the arsenal of power for each of the private parties. The Madison Avenue boys have moved in on both sides of the bargaining table.

With public opinion as the sole judge of what is right in collective bargaining, neither labor nor management can afford to leave any stone unturned to win public support. Others will be more competent than I to judge the effectiveness of organized labor's public relations efforts. From my position as a management representative, organized labor has done a most effective job in capitalizing on the latent sympathy of the American public for the underdog and winning the support of a wide public for its program.

Management has improved its position vis-à-vis the public above the low level to which it sank during the 1930's and, perhaps as a result of its accomplishments in World War II and the Korean affair, is receiving a more favorable hearing on the part of the public. Through the mass media of communications and improved utilization of these media, along with house organs and community relations departments, management is attempting to get its story across to the public. It is still handicapped by deficiencies in techniques. For example, its position in our society does not permit it to use the very dramatic and colorful although somewhat crude, vocabulary so effectively utilized by organized labor's public relations men. Management's public relations men wear the grey flannel suits of the Madison Avenue boys but haven't developed the vocabulary or techniques to sell management's labor policies as well as the Madison Avenue boys have developed the vocabulary to sell soap.

Most firms of substantial size now have a full-blown community and public relations department, the director of which holds a prominent position in the company. During recent years we have witnessed a tremendous increase in the prestige of the public relations man in industry. In several industries, particularly in public utilities, it is not unusual for the line of progression to the presidency to pass directly through the public relations department. Unfortunately, many community relations departments have become highly specialized staffs without a broad base and hit only the superficially recognized channels of communication with the public. Still, the whole gamut of public relations tools is at the command of the labor relations department and is being utilized to create a favorable public opinion for its labor policies.

What I have said above regarding management's public relations effort applies to big business, but here, as in many other fields, small business is greatly handicapped and generally fights a losing battle in its efforts to obtain a favorable public opinion in labor relations.

Management is also handicapped by the lack of effective employer organization on the local level. On a national level there is better employer organization and co-ordination among employer organizations such as the National Association of Manufacturers (NAM), the United States Chamber of Commerce and many trade associations, however one may disagree with some of the theories and policies propounded by these groups. On the local level these groups are relatively ineffective and do not affect public opinion. Most companies are, therefore, without any effective organized employer help in their public relations—especially in labor relations matters—and each company is on its own in defending itself against public attack by organized labor. In contrast, organized labor has the support of the entire local labor movement through trades and labor assemblies, industrial union councils, or the combined efforts of both where merger has occurred.

Management will often get a personal pat on the back from other employers for its

[3] Recognizing the problem of defining "public opinion" briefly, I shall accept the definition provided by Neil Chamberlain in his book *Social Responsibility and Strikes* (Harper & Brothers, 1953), p. 27.

efforts in a labor dispute, or expressions of sympathy, but that's about all. Only rarely will a colleague or an employer-customer be willing to inconvenience himself or his business to assist a company facing a labor dispute. A local manufacturers' association will rarely extend an effective helping hand, and if this should be done publicly it would more likely prove to be a kiss of death than a real aid in winning the support of the public. Local chambers of commerce have become converted to civic organizations heavily engaged in trying to attract new industries to their communities, and refused to become tainted by assisting an employer in his public relations during labor difficulties. I have seen one small community in which a chamber of commerce spent a considerable amount of funds to attract new industry but refused to become involved when an established and important industrial firm was on the verge of going out of business largely because of a labor dispute.

In a multiemployer dispute which closed all the restaurants in a community for six weeks and inconvenienced large numbers of people, a chamber of commerce refused to assist in providing effective mediation assistance. The mass media of newspapers, radio and television reflected public opinion by urging a quick settlement, regardless of the terms and regardless of the efforts of one of the parties to break a vicious stranglehold on the industry.

While it is frequently claimed that the press is management-oriented and that organized labor is at a disadvantage in getting its story across to the public through the newspapers, we should not overlook the effect of these charges on the newspapers themselves. With the exception of a few large metropolitan papers, and in national emergency disputes, the newspapers hesitate to become involved in local labor disputes. It is common practice for newspapers to publish only official statements issued by each of the parties in a labor dispute and to refrain from editorializing on the issues involved. Complaints by both labor and management are often a reflection of their disappointment at not receiving the special consideration which they would like to have. Hence, the frequent resort to paid newspaper advertisements by both sides in trying to win public support.

The lack of community organization and effective public opinion in labor relations was brought home vividly in a recent two-month strike in the only local newspaper published in one community. The only other mass media—the radio and television stations—were busy gathering in the shekels through advertising which normally went to the newspaper and had little time to devote to informing the public of the issues involved or the progress of the dispute. The publisher of the newspaper controlled one television station but felt circumscribed by social forces and the possible effects on the rating, profitability and competitive status of this one among three stations in attempting to get his story across to the public. The only effective medium of communication with the public was printed handbills mailed to the homes of its subscribers—and this was inadequate.

In contrast, the striking newspaper guild had its own tabloid newspaper on the streets within a short time after the strike began, and the striking guildsmen and women did a most effective job in winning public support. Add to this the weekly trades and labor assembly paper, the many individual local union papers plus the support of the entire labor movement, and "public opinion" was soon predominantly on the union side. Pressure from local merchants, deprived of their main advertising medium, soon brought the publisher to terms acceptable to the union. Such was the power of the daily press in a labor dispute.

For fear of being considered one-sided in my commiserations for management in its efforts to win the support of public opinion, I hasten to add my personal opinion that in their efforts to win the support of public opinion in labor-management relations, the Madison Avenue boys on both sides are just about deadlocked or equally disadvantaged. The outcome is a thoroughly confused and bewildered public opinion. My observations would, in general, support the findings of Neil Chamberlain in his survey reported in his excellent book.[4]

In the recent reports on the commencement of negotiations between the UAW and each of the "Big Three" in the automotive industry, the impressive opening was accompanied by joint and separate statements containing two major points. First, each of the parties promised to be guided in its negotiations by the public interest—as it saw it—and second, the joint announcement was made that a blackout would be imposed on any information to be provided to the public by either party

[4] Cited at footnote 3.

unless a 24-hour advance notice is provided by the party desiring to remove the blackout.

The impact of collective bargaining between large industry and large unions on the economic welfare of all the people is too great to permit reliance on public opinion—uninformed, confused and often blocked out of the scene of deliberations between the parties—for the sanctions required to protect the public interest.

Having witnessed the inflationary results of successive collective bargaining agreements during recent years, it is regrettable (though easily understandable) that the public has reacted violently through a reduction of purchases. This is a rather extreme and undesirable method of expressing public opinion. Some more effective channel of communicating public opinion, short of a recession or depression, must be found.

The stake of the public is clearly reflected in the provisions of the Employment Act of 1946 under which the federal government is committed, under appropriate conditions, "to promote maximum employment, production, and purchasing power."[5] It is obvious from this statement that the public is more than an interested bystander when the results of collective bargaining adversely affect the level of employment. Perhaps there is more than humor in the definition of collective bargaining as outrageous proposals submitted by a union, reluctant acquiescence by management to more than is appropriate, and payment of the costs by the public.

The results of collective bargaining are of greater importance to our economy than is recognized by our legislative framework, and the interests of the public are not adequately protected. I believe that there is considerable awareness of this fact among knowledgeable individuals and groups in the field of industrial relations. Let me cite only a few instances on both the management and union sides.

In testifying before a Senate committee on transportation, Dr. Jules Backman claimed that outmoded labor contracts were largely to blame for the precarious financial condition of the nation's railroads and recommended the appointment of a citizens' committee, including labor experts, to study the carriers' labor contract provisions and to propose a solution in keeping with the public interest.[6]

Recently Walter Reuther proposed to the auto companies the appointment of a public panel to review "the ethical aspects" of 1958 collective bargaining. He suggested that ten clergymen, assisted by a bipartisan group of economists serving as expert consultants, be selected for this purpose.[7]

Mr. Reuther, appearing before the Senate Anti-Trust Subcommittee on January 24, 1958, also proposed that Congress establish an "independent office of Consumers' Counsel" which would be given broad power to intervene on behalf of consumers with all governmental agencies acting on matters affecting their interest, and would publish its findings in the public interest.[8] I would assume Mr. Reuther would not object to the extension of his proposed counsel to labor relations matters between private parties.

We have all read of the attempt, thus far unsuccessful, by Joseph Beirne, president of the Communications Workers of America, to have a fact-finding board, appointed by a prominent government official, to pass on current bargaining demands of the union he represents. Similar examples can no doubt be cited among other labor and management groups.

The inadequacy of reliance on "public opinion," as we know it today, to bring

---

[5] United States Statutes at Large (1947), Pub. L. 304, pp. 23-26.

Recent attempts to amend the Employment Act of 1946 indicate considerable controversy over the scope of the federal government's responsibility "to promote maximum employment, production and purchasing power."

Since this paper was prepared Representative Henry Reuss has introduced H. R. 12785, which attempts, among other proposals, to amend the Employment Act of 1946 by requiring the Council of Economic Advisors to study proposed price and wage increases which have an inflationary potential and to report them to the President. The President, in turn, may take either or both of the following courses: (1) consult informally with representatives of industry and labor concerned with the proposed price or wage increase in an effort to induce voluntary restraint and (2) make public his recommendations against the proposed increases in order to let an informed public opinion help induce restraint. Representative Reuss has stated: "This new definition of duties in the wage-price field by the President and his Council of Economic Advisors is designed to make definite and useful the vague exhortations and admonitions to industry and labor which the President has repeatedly used. . . . The trouble with these generalized admonitions is that nobody pays any attention to them." *Congressional Record*, June 3, 1958, pp. 9020-9024.

See also S. 2824, which attempts to make a stable price level one of the objectives of federal economic policy. *Congressional Record*, August 21, 1957.

[6] *New York Times*, March 26, 1958.

[7] *Solidarity*, February 24, 1958.

[8] *IUD Bulletin*, February, 1958, p. 4.

Until we do revise our sense of values, we will never think we can afford to do the things which, in my judgment, we must do if we are to survive as a free nation.
—Senator J. W. Fulbright

about conduct by private parties which would not be inimical to the public interest has been commented on by many authorities. One interesting analysis deplores the fact that modern publics can neither *"understand* nor *influence* the very events upon which their life and happiness is known to depend."[9] In this analysis the writers also suggest that if "the appropriate education on a vast enough scale and at a rapid enough rate is not provided for, the distrust and privatization of the masses may become a fertile soil for totalitarian management."

The factors affecting power relationships in industrial relations are too numerous to explore in one brief essay or discussion. In my comments I have tried to highlight a few of these factors which appear to me to be of importance. Let me summarize as follows:

(1) The impact of changed labor-management relations is most direct in the area of collective bargaining, and it is here that the power relations of the parties meet head on.

(2) Voluntaryism has been a cardinal principle of collective bargaining, which is regarded as a private affair to be conducted by the representatives of labor and management.

(3) The major emphasis in the Taft-Hartley Act has been on the avoidance of industrial strife "which interferes with the normal flow of commerce," and not on the protection of the public interest.

(4) Public opinion, as experienced in collective bargaining, is not generally a very effective means of controlling legal acts, of the private labor and management parties, which are inimical to the public interest. It has merely introduced another weapon in the arsenal of power for each of the private parties.

(5) Apparently labor and management groups are just about deadlocked or equally disadvantaged in their costly efforts to win the support of public opinion in labor relations.

(6) Management has improved its channels of communications with the public through the greater utilization of staff specialists, community relations departments, house organs, etc. It is disadvantaged relative to union public relations efforts by an insufficiency of dramatic and colorful vocabulary, and by lack of a sufficiently broad base of operations.

(7) Management is also handicapped by the absence of effective employer organization at the local level. Local employer organizations are of little or no assistance in labor relations, particularly in attempting to win the support of public opinion. As compared with the assistance provided by local trades and labor assemblies, industrial union councils or merged units of these groups, and the aid of numerous local unions, the local units of manufacturers' associations and chambers of commerce are ineffective and inadequate.

(8) Not much light or clarity has been shed on labor-management relations through the separate efforts of the parties to inform the public. The public remains thoroughly confused.

(9) Labor and management groups at the present time prefer to impose a blackout on public information during negotiations rather than expose their collective bargaining process to public view.

(10) There is some indication that both labor and management groups might be disposed to accept the presence of an impartial panel of public citizens which would inform the public on labor-management matters. However, the techniques of selection of such a panel and the method of its operations are in an amorphous stage of development.

(11) The results of collective bargaining are of greater importance to our welfare than is recognized in the present legislative framework, in which labor-management relations are conducted as a private affair and the public interest is not adequately protected.

To devise adequate tools to protect the public interest in labor-management relations which will preserve the voluntaryism we deeply cherish and retain the benefits of industrial democracy is the great challenge to all of us engaged in this important field of endeavor. **[The End]**

[9] E. Kris and N. Leites, "Trends in Twentieth Century Propaganda," *Psychoanalysis and the Social Sciences* (1947), p. 393 and following.

Union-Management Power Relations in the Chemical Industry: The Economic Setting

By ARNOLD R. WEBER

Arnold R. Weber is assistant professor of industrial relations, Massachusetts Institute of Technology.

IN his *Teacher in America,* Jacques Barzun tells of incurring a clubwoman's wrath when, in response to her persistent use of the term "power politics," he asked what else politics could be about except power. A similar disclaimer could be raised concerning the academic designation of "Power Relations in Industrial Relations." Even the most enthusiastic advocate of the Mayo school will acknowledge that industrial relations, in fact, are tinged with elements of power. However, where the clubwoman may be content with an expression of feminine ire, the academician must turn his hand to demonstrating that what appears to be a truism really masks a body of complex phenomena. This paper is conceived on the premise that academic ardor is a more vital force for enlightenment than a clubwoman's outrage.

Perhaps the most direct approach to the analysis of power relations in general is through the examination of the interactions between the participants. Such a methodological path is particularly inviting to those who are interested in union-management power relations. Here, the various organizing drives and the practice of collective bargaining provide a readily discernible framework for analysis. If, however, attempts at unionization and the subsequent collective bargaining activities represent the primary data of the union-management power relations, then the economics of the industry under scrutiny will determine the topography of the arena within which these power encounters take place. In this regard, economic conditions will frequently have a conclusive effect on the availability of sanctions and the ultimate choice of strategy by each party. The significance of these topographical considerations is augmented by recognition of the fact that in union-management relations the union is typically the aggressor, pressing forward against the defensive positions held by management. Under these circumstances, the economic terrain may either facilitate incursions by the attacking unions or afford the employer natural redoubts from which he may meet any challenge to his ascendancy. Accordingly, this paper is concerned with the economic bases of union-management power relations in the chemical industry. The relevant variables are derived from an analysis of the economic aspects of the industry and are related to those interactions encompassed by the process of unionization and collective bargaining practice.

The salient characteristic of the chemical industry is its diversity. In fact, the chemical industry is a complex of loosely related industries tied together by conditions of technology rather than similarities in the raw materials used, the commodities produced or significant manifestations of substitutability in the market place. Broadly, it may be divided into two gross categories along product lines: basic chemicals (like acids and alkalies) and allied products ranging from paints and explosives to synthetic fibers and printing ink. Horizontally, the chemical industry admits such diverse finished products as fertilizers, drugs and soap. Vertically, it embraces successive orders of goods from coal-tar crudes to dyes and perfumes.

The kaleidoscopic quality of the chemical industry has been heightened by the pattern of internal corporate development. In the first instance, the industry is dominated by a handful of large, multiplant firms—DuPont, Union Carbide, Allied Chemical and American Cyanamid—whose interests span literally hundreds of product sectors.

Second, the anticipated benefits of vertical integration have induced firms whose primary concern lies in other areas of the economy —such as oil, rubber and glass—to set up shop in the chemical industry in significant numbers. The process of integration has been carried forth by mergers, joint ventures and the proliferation of chemical divisions within the structure of nonchemical firms.

This dual heterogeneity helps to explain the tempo and direction of chemical union growth. So diffuse is the industry's structure that it proved to be resistant to any explicit jurisdictional definition until the early 1940's—more than two decades after it had come of age in the United States. Up to that time, indigenous chemical unionism was limited to the diminutive Powder Workers Union and a scattering of AFL federal labor unions which together comprised about 1 per cent of the industry's work force. When the chemical industry was formally staked out as a union-management power arena, this step was a consequence of the industry's amorphous nature rather than a matter of conscious intent.

In 1936, dissatisfaction with the AFL's policy concerning plant-wide bargaining units induced a group of federal labor unions in New England to petition the United Mine Workers for a jurisdictional grant covering the manufactured gas industry. Aside from considerations of self-preservation, the federal labor unions turned to John L. Lewis because manufactured gas was produced from coke which, in turn, was a coal by-product. This rationale provided sufficient justification for the establishment of District 50 (UMW) with formal jurisdiction over the coal processing industries. A few years after District 50 was chartered, however, it became evident that the manufactured gas industry was in a state of secular decline. To forestall the atrophy of its jurisdiction, the term "coal processing industries" was reinterpreted to include chemicals derived from coal tars. Since it was impractical to distinguish between coal tar and noncoal tar chemicals, the entire industry was circumscribed as District 50's domain. In this devious fashion, the UMW affiliate was the first national union to take the field against chemical employers on an industry-wide basis.

The AFL placed its entrant in the lists in a somewhat more direct manner. Moved to action by the District 50 threat, the AFL established the National Council of Chemical and Allied Industries Unions, consisting of federal labor unions with jurisdiction over chemical plants of all descriptions. After four years of probation, in 1944, the council was officially chartered as the International Chemical Workers Union. Still another chemical union came into existence under the aegis of the CIO when, in 1945, the United Gas, Coke and Chemical Workers Unions was organized around a nucleus of dissident District 50 locals. In 1955, this group itself merged with the Oil Workers to form the Oil, Chemical and Atomic Workers Union. Meanwhile, District 50 had become John L. Lewis' personal instrument of retribution and recognized no industrial limitations at all. Despite the multiplication of chemical unions, the industry's boundaries were sufficiently imprecise so that only one—the ICWU—is today devoted solely to national chemical unionism.

The implications of these developments for union-management power relations are obvious. Much of the resources of each union has been dissipated in the usual excesses of rival unionism with little net gain to any single party, except perhaps the employer. However, of greater importance, the belated growth and subsequent fragmentation of national chemical unionism facilitated the emergence of independent unions which have pre-empted strategic sectors of the industry. Without a union organizer standing at the plant gate exhorting the workers to rally round a single flag, the chemical employer enjoyed a period of grace when public policy on trade unionism was drastically altered in the 1930's. In this period, many works councils and other relics of the era of welfare capitalism were transformed into bona fide independent unions without running afoul of Section 8(2) of the Wagner Act. In DuPont alone, some 48 unaffiliated unions were established by 1940. Although no exact figures are available, it is certain that the membership of these single plant, independent unions exceeds that of any given national chemical union—in an industry which is barely 50 per cent organized.

Having surmounted the obstacles presented by rival unionism, the individual chemical union finds little surcease in the industry structure when engaged in the business of collective bargaining. In encompassing a multiplicity of products and crisscrossing the corporate network of the American economy, the chemical industry presents no clearly delineated frame of reference for the formulation and implementation of collective bargaining strategy.

Thus, there is no single settlement or group of related settlements which generates a pattern applicable to the unionized segments of the industry in general. In addition, a given bargaining unit may find itself engaged in the manufacture of so many different products that it would be difficult to determine unequivocally which product market comparison would be appropriate to its circumstances. Where a local union does attempt to define its bargaining position by reference to a unique chemical product, the employer might reject this approach and instead assign the greatest significance to the primary, nonchemical components of its aggregate product mix. As a result, product market comparisons have become an important consideration only under special conditions. In the absence of such conditions—a likelihood which describes the situation in the most important branches of the industry—chemical unions usually have turned their attention to the local labor market in search of suitable bargaining criteria. As will be shown below, this contingency generally permits the employer to fight the battle on grounds most favorable to the exercise of effective defensive power.

Notwithstanding its diversity, the chemical industry has been associated with other internal economic characteristics whose impact on union-management power relations has been considerable over time. First, a sustained rate of technological change has supported prodigious increases in chemical worker productivity. In the period from 1948 to 1955, output per man-hour rose by 51 per cent and shows little signs of abating at the present. Second, chemical technology is frequently marked by a high degree of complementarity between the factors of production so that the demand for labor of the individual firm will vary only slightly for changes in the level of output in the short run. Third, labor cost generally constitutes a small proportion of the total cost of chemical goods production. For the industry as a whole, labor costs comprise about 15 per cent of total cost and may range from 6 per cent for soaps to 10 per cent for organic chemicals and 20 per cent for alkalies and chlorine.

In the light of the typical absence of strong, continuous pressures on price in chemical product markets, it is apparent that these internal economic conditions have supplied management with a store of indulgences with which it can win and maintain the workers' loyalty. The relative unimportance of labor costs has enabled many employers to pay high wages and initiate elaborate benefit programs as a matter of policy without drastic consequences for profit levels. The complementarity of the factors of production has helped to enhance the job security of the chemical worker so that his separation rate is about half the equivalent rate for all manufacturing. The high rate of productivity increase gives technological assurance that the stream of benefits will not run dry. When such largess is buttressed with sophisticated personnel practices, it is easy to understand how firms like DuPont and Procter and Gamble have undermined the appeal of national chemical unionism and have cultivated the passive, independent variety of labor organization.

If chemical unionism has been spread thin over innumerable product sectors, its resources have been further diffused by the geographical distribution of chemical establishments. Unlike many other mass-producing industries, no single locale could be pin-pointed as the dominant site of chemical industry activity, either in the past or present. Although the heaviest concentration of establishments and employment is found in the Mid-Atlantic region, extensive chemical complexes exist in almost all parts of the country. This geographical pattern of dispersion, in turn, reflects the impact of divergent market and raw-materials-supply considerations.

Consequently, the national chemical unions have had to deploy their manpower along a wide front and with a pragmatic sensitivity to the prospects for winning bargaining rights at alternative unorganized plants. More subtly, the dispersion of chemical establishments has minimized the opportunity for achieving an organizing breakthrough of dramatic, industry-wide impact. When the CIO prevailed at Chevrolet plant No. 4, the repercussions were felt throughout Detroit and the automobile industry; when the ICWU ousted an independent union from the sizeable DuPont plant in Parlin, New Jersey, it merely meant the affiliation of another 1,200 workers. Thus, the geographical distribution of the chemical industry does not engender the illusion of power which, if daringly exploited, may be transformed into actual power. Doutbless, an appreciation of these relationships helped persuade John L. Lewis to reject an early appeal from the leadership of District 50 calling for a massive organizing drive aimed at the chemical industry.

The dispersion of the chemical industry has also reinforced the tendencies toward localism in collective bargaining. Without a geographical "power center" or strong centripetal forces generated by the product market, the local labor market constitutes the most visible arena for the resolution of power relations through collective bargaining. Once again, the employer generally finds comfort in this development. That is, without the goad of collective bargaining, the technology and cost structure of chemical production have created an environment conducive to relatively high wages. As a result, the application of local labor market criteria often permits the chemical employer to deflate the union's demands by reference to those nonchemical firms which are subject to more stringent economic conditions. Conversely, should such comparisons prove to be invidious, the employer may have to meet labor market standards in any case in order to maintain his work force. The likelihood of such an occurrence has been reduced, however, by the supply factors noted above which have caused many major chemical establishments to be located in rural areas where they are the preponderant employers and enjoy a monopolist's latitude in wage determination.

This retreat to the local labor market in collective bargaining is of critical significance in view of the pre-eminence of large, multiplant firms in the chemical industry. Approximately 50 per cent of all chemical employees are on the payroll of 15 companies, while the four largest firms alone account for about 26 per cent of the industry-work force. This dominance of multiplant companies is sharply mirrored in the corporate distribution of the chemical unions' membership. In the ICWU, for example, 75 per cent of the members are found in locals whose jurisdictions embrace single plants of multiplant concerns.

Within this framework it is obvious that notwithstanding formal adherence to localism in contract negotiations, the effective bargaining unit will transcend the individual plant. Even assuming the complete independence of each set of negotiations, experience has vividly revealed that no union dealing with a multiplant firm can overlook the possibility that its efforts to bring the employer to terms in one unit by the exercise of economic sanctions might be impaired by the latter's ability to maintain production at other units in the company chain.

The sophisticated chemical employer has also manipulated the disparity between the *de jure* and *de facto* bargaining units for offensive purposes. When initiating a change in company policy concerning fringe benefits, such as pensions and vacations, management will often resort to whipsawing tactics whereby it is difficult for any single local union to counter effectively the employer's initial offer. Local unions of all affiliations have experienced deep frustration in attempting to alter these company politics from their limited bases of operation. The employer's hand is strengthened, of course, by the fragmentation of union membership among the several forces for chemical unionism.

The organizational solution to these problems from a union point of view is clear. First, structural adjustments within the individual chemical unions are necessary to promote the multilocal co-ordination of collective bargaining strategy. Second, union bargaining power may be augmented by collusion or explicit cooperation among the different chemical unions. As a matter of fact, both these developments have been carried forth apace in recent years. The ICWU and OCAW have established special company councils which link together locals with representation in 12 multiplant concerns. Moreover, since the AFL-CIO merger, the appropriate ICWU and OCAW Councils have joined forces in an attempt to present a common front to management. Even in the insulated DuPont chain, the typically compliant independent unions have formed a loose-knit federation in the hope of laying a structural foundation for self-assertion. In one sanguine case of interunion amity, an independent union cooperated with ICWU and OCAW locals in serving common wage demands on the Colgate-Palmolive Company and supporting those demands with a simultaneous strike.

These developments pose the most serious challenge to management's hegemony since modern chemical unionism emerged on the scene. To date, no conclusive judgment can be made concerning the outcome of this attempt to restructure power relations in the chemical industry. The ICWU and OCAW have scored initial successes by negotiating company-wide pension and insurance agreements with Monsanto, American Cyanamid and Sterling Drug. The significance of these achievements is tempered, however, by the realization that management's acquiescence to company-wide pension agreements was based in part on sound actuarial and administrative considerations.

In other substantive areas, the major chemical companies have revealed an unbending resistance to dealing with unions on anything other than a local basis. In this respect, they have sought to preserve the *status quo* through a combination of enticement and coercion. Some companies, particularly American Cyanamid and Monsanto, have employed a modified form of Boulewareism to thwart the implementation of multiplant bargaining. Here, management has offered to negotiate contract extensions providing for attractive wage increases which would take effect before the existing agreement is scheduled to expire. Acceptance of this offer by individual locals then precludes them from taking joint action with other locals and may keep the entire union group off balance. On the other hand, Union Carbide showed itself willing to endure a strike by five OCAW locals in its Linde Air Products Division in order to defeat what was interpreted as an effort to expand the formal bargaining unit beyond the single plant. Whether or not the company councils will be a sufficient device to redress union-management power relations in the chemical industry, it seems apparent that the employer is prepared to exploit all the advantages which the economic terrain affords him.

What summary observations may be made concerning the relationship between the immediate economic environment and union-management power relations in general, and the chemical industry experience in particular?

When confronting the employer in any power encounter, unions may choose among three alternative arenas: the labor market, the product market or the structure of the business enterprise. In many situations, these arenas are coextensive so that the effectiveness of sanctions initiated by a union in a given labor market or against a designated group of firms will be augmented by the repercussions of such measures in a specific product market. Other chains of effect may be similarly described. With a given organizational base, then, it seems likely that union power vis-à-vis the employer will tend to increase as these three arenas coincide and will tend to decrease to the extent that they remain insulated from each other.

The chemical industry clearly falls at the latter end of the continuum. The dominant firms, like the industry itself, embrace a plethora of product markets and innumerable labor markets along a wide geographical front. Consequently, chemical unions generally have been unable to apply economic leverage through the network of arenas within which they find themselves. Indeed, it is not always apparent which arena is relevant to a particular local's circumstances. Without rationalizing structural innovations, chemical unions have been forced to resort to guerilla warfare in isolated battlefields. The structural developments noted previously indicate that some chemical unions are rising to meet the challenge of chemical economics. However, in the interim the employer has had ample opportunity to prepare his defenses for the contests which lie ahead.

[The End]

INCREASE IN REHABILITATION

For the third year in a row, a new record has been reached in the number of disabled men and women who were able to go to work as a result of rehabilitation services, according to the Office of Vocational Rehabilitation of the United States Department of Health, Education, and Welfare.

It was reported that 74,320 disabled persons were rehabilitated during the fiscal year that ended June 30, and that they are now making good in their jobs. This was 3,380 above the previous record set under the state-federal program in fiscal 1957.

An additional 18,584 disabled persons—also a new record—were brought through rehabilitation services last year to the point where they were ready for employment but have not yet found jobs.

In commenting on the new record of rehabilitated persons who obtained employment, Secretary of Health, Education, and Welfare Arthur S. Flemming said:

"This is especially heartening in view of the fact that the period in which the new record was achieved was one in which jobs were harder to get than usual in some areas.

"The steady growth of this program is an achievement of great significance in both humanitarian and economic values."

Topic: Some Impacts of Power in Industrial Relations
Chairman of Session: George Seltzer

Pattern Bargaining by the United Automobile Workers

By HAROLD M. LEVINSON, University of Michigan

THE RESEARCH STUDY which I would like to discuss with you is concerned with pattern bargaining by the UAW with firms in the Detroit metropolitan area, excluding the three major vehicle producers. Before beginning the discussion, however, I want to emphasize that the evaluation of the data is still in process, and that my observations should be considered as only preliminary in nature. It may be that a more closely detailed analysis will require some modification of these tentative findings.

The field work for the study was done in late 1956 and early 1957. It was designed to provide some insight into two related facets of pattern bargaining: First, to what extent did the "key" bargain negotiated with one of the "Big Three" vehicle manufacturers become the basis for negotiating identical, or equivalent, settlements with other firms organized by the UAW? Second, to the extent that deviations from the key bargain did occur, what were the major variables which determined where and to what degree they occurred?

The study is based upon a detailed analysis of the collective agreements negotiated with approximately 87 firms outside the "Big Three" over the period from 1946 to 1955; only companies organized through all, or nearly all, that period were included. The contract data itself was supplemented by extensive personal interviews with the local and international officials who were most directly responsible for the negotiations in the companies involved. In addition to four of the smaller vehicle producers, the sample included 83 other firms which were chosen to provide reasonably good diversification among concerns of varying sizes, and which were producing for various types of markets, with the expectation that they would provide a cross section of varying abilities to pay, varying degrees of union strength and other elements which might be relevant to the strength of the pattern. A preliminary estimate indicates that the entire sample included approximately 30 per cent of the firms in the Detroit area which were organized by the UAW throughout the entire period under review. In terms of union membership in Detroit, the sample represented about 80 per cent of the total members employed outside the "Big Three," since almost all of the larger bargaining units in the area were included.

Any attempt to measure the extent of pattern bargaining must, of course, deal with the question of how to define the pattern. Until the late-1949-early-1950 settlement, this did not pose any particular problem since the key bargains were largely one dimensional, involving merely a direct cents-per-hour wage increase or including, as in 1947, a simple choice of 15 cents or 11½ cents plus six paid holidays. Since 1950, however, fringe benefits of several types have become increasingly important aspects of key settlements. Under these circumstances, it is possible to consider the pattern as consisting either of the identical *form* of benefits provided in the key bargain, or as an equivalent, or near equivalent, total "package" of benefits, regardless of their specific form.

There are, I think, legitimate arguments supporting either point of view, depending on the particular purpose involved. It seems to me that for the purpose of evaluating the economic impact of pattern bargaining, it is more appropriate to define the pattern in terms of the total package, since a measure which rests on the specific benefits would yield highly misleading results. In 1950, for example, only 16 out of the 87 producers covered (less than 20 per cent) adopted the pension-insurance program of the "Big Three"; an additional

56 concerns, however, equal to an additional 65 per cent, settled for a direct wage increase or a combination of wages and fringes which was considered to be equal to the total value of the "Big Three" package. Similarly in 1955, only 23 out of 87 firms signed agreements incorporating a supplemental unemployment benefit (SUB) plan identical, or nearly identical, to that included in the key bargain, while another eight adopted some type of deferred SUB plan. However, several companies gave five cents in lieu of a SUB plan, and several others who had bypassed pensions in 1950 applied the five cents toward partial payment for a noncontributory pension plan. In view of these facts, it seems clearly preferable to conceive of the pattern in terms of the total package.

Furthermore, I will discuss deviations from the pattern in a downward direction only, for while there were at least a few instances of pattern-plus settlements in each round, the great majority of them involved a "make-up" on items not obtained in prior negotiations. If these instances are eliminated, the number of true pattern-plus settlements is very small indeed. For all practical purposes, we can view the pattern as the upper limit of possible settlements.

Turning now to the question of the pervasiveness of the pattern itself, the record as a whole for the entire postwar decade indicates that, in terms of number of companies involved, deviations from the key bargain were considerable, particularly after 1950. The proportion of bargaining units in the sample which adopted the key bargain, either in specific terms or in terms of an equivalent total package, was consistently between 75 and 80 per cent during the 1946, 1947, 1948 and early 1950 rounds. From late 1950 through the 1953 and 1955 negotiations, however, this percentage dropped to 60, 40 and 35 per cents respectively. The strength of the pattern was much greater, however, when measured in terms of total union members involved. From 1946 to 1955, the proportion of union members in the sample working under pattern contracts was consistently above 90 per cent. In 1955, however, the figure dropped to only 65 per cent if the deferred SUB plan is considered as a below-pattern settlement, or to 80 per cent if it is not.

In view of these figures, the question arises as to the major factors which explain the extent to which a particular firm does or does not follow the pattern. There are, of course, several variables involved—some mutually reinforcing and some working in opposing directions. A more detailed analysis of the data indicates, however, that three major variables were dominant: first, the size of the company; second, its relationship to the automobile industry; and third, its financial condition or ability to pay.

The significance of the first two factors is shown most clearly by the fact that of the total bargains negotiated from 1946 to 1955 with firms employing more than 500 persons, approximately 12 per cent were below the pattern, compared to almost 40 per cent of the settlements in firms employing less than 500. Furthermore, there was a consistently closer adherence to the pattern, particularly after 1950, by firms which were more closely related to the automobile industry. Again considering the period as a whole, about 25 per cent of all of the contracts negotiated in the automobile industry were below the pattern, compared to 40 per cent in the nonautomotive firms.

This dominant emphasis on size, particularly in the automobile industry, was attributed by union negotiators primarily to three economic considerations. One factor widely cited was that a below-pattern settlement in a large company considerably weakened the union's bargaining position in attempt to obtain the pattern in subsequent negotiations with other companies, since large firms often acquire a certain status as subsidiary pattern-setters within particular subsections of the industry or in particular subsections of the labor market.

A second more basic consideration, which was most relevant for the larger automobile firms, arose from the danger of permitting the development of interlocal competition. Such competition, of course, largely results in the shifting of production from the more profitable, more efficient firms which can meet the pattern, to the less profitable, less efficient firms which cannot. In effect, union officials, particularly at the upper and middle levels of the organization, consider the wage-employment relationships for the industry as a whole rather than in any particular firm. Once the key bargain is established, the net effect of any downward adjustment within competing firms may be to undermine the industry standard without any compensating increase in the volume of employment.

By the same logic, the third economic variable—the individual firm's ability to pay—was much less important as a determinant of the union's wage policy in the large "status" concerns. It is probably true, of course, that as a group the large firms were

financially more able to meet the pattern than the smaller ones. Nevertheless, many of the large companies in the study were faced with serious financial difficulties during some part of the period covered, yet no, or very minor, modifications of the pattern appeared in the negotiated settlements. It seems clear, therefore, that in large units in general, and in the large automobile firms in particular, the broader economic considerations took precedence over the narrower problems of individual firms.

When the focus is shifted to the smaller companies, the pressures on the union to obtain a pattern settlement become lessened. It has already been noted that during the entire 1946-1955 period, approximately 40 per cent of the contracts negotiated with firms having fewer than 500 employees were below the pattern; in 1955, the figure was 70 per cent. The reason, of course, is that these firms are sufficiently small so that the union is not concerned about the indirect effects of below-pattern agreements on the general standards in the industry. In these units, therefore, the dominant consideration was the individual firm's financial condition, and the union normally was quite willing to make substantial concessions upon a clear showing of financial difficulty.

In attempting to evaluate more precisely the effect of the firm's financial position on the union's wage policy, I also inquired into the consideration given to the elasticity of demand for labor in the individual firm. On this issue, union representatives were virtually unanimous in stating that possible employment effects become a *relevant* consideration, though not necessarily a *controlling* one, if there is a clear and immediate threat to the survival of the firm or, somewhat short of that, if a large proportion of the firm's employees is currently unemployed. By the same token, if the negotiating committee is convinced that the firm is not faced with an immediate financial crisis, or if the current volume of unemployment in the firm is not high, it would continue to press for a pattern settlement even in the face of a strong possibility that a below-pattern settlement would permit the company to maintain a considerably larger volume of employment. It should be noted for the record, however, that a very few specific situations were cited—perhaps three or four in all—where a one- or two-cent modification of the pattern was accepted in order to permit the firm to bid for or retain important jobs.

Union leaders explained this lack of emphasis on "employment effects" in the firm partly in terms stressed by Arthur Ross in his well-known comment: "The volume of employment associated with a given wage rate is unpredictable before the fact and the effect of a given rate on employment is undecipherable after the fact." Beyond that, however, the indirect economic effects of wage concessions in large companies, as discussed above, were dominant even where a substantial employment effect was predictable. It would appear, therefore, that to the extent that wage-employment relationships were relevant, they were confined largely to smaller companies in clear financial distress. This conclusion also tends to support Ross's general contention that trade union wage policy cannot be understood in terms of a maximizing process, at least at the individual firm level.

A final facet of the union's wage policy, which developed into a very important aspect of the present study, involved the problem of production standards. Under this approach, adjustments were made in individual firms through changes in productivity rather than through changes in the negotiated pattern of benefits. The opinion was widely expressed by union spokesmen that the real source of financial difficulties of many firms was not to be found in too-high hourly wage rates or above-standard fringe benefits, but rather was due to relatively low productivity, caused in part by managerial inefficiencies, relatively loose production standards or relatively high idle-time allowances. These loose labor standards had developed largely with the acquiescence of management under the labor and product market conditions prevailing during the war and postwar years. So long as labor was scarce and goods could be sold under "cost-plus" contracts or in a strong sellers' market, management was relatively unconcerned about costs. Local union requests for looser standards, higher incentive rates and various idle-time allowances were granted with a minimum of resistance. Once the competitive situation became increasingly severe, these firms found themselves in mounting financial difficulty.

In general, the union representatives recognized the problem and were sympathetic to management's concern about it. The union's position in this regard, however, was: (1) The problem had originated largely as a result of weak management—that is, with management acquiescence and, in some cases, management initiative. (2) This type of problem did not justify any substantial concessions in the form of below-pattern settlements in these companies,

since their hourly rates and fringe benefits were not "out of line." (3) While the union representative would cooperate with management in trying to convince the local membership that an increase in productivity was both necessary and justified, the primary responsibility for initiating and implementing such a program must rest with management. In addition, the union was more willing to provide relief to individual firms through adjustments in productivity rather than hourly compensation since the former technique could not be as easily known to outsiders and, hence, involved less possibility of adverse secondary effects.

The productivity approach, however, is concededly a long and difficult one, and from the union's point of view is a very delicate one to handle. While the top officers of the union may attempt to convince the membership that prevailing standards are relatively low, they must overcome work habits which have been established and accepted over a long period of years. Neither can the union leadership ignore a long history of union organization and strike action against the so-called "speed up."

Under these circumstances, it is understandable that this approach has met with varying degrees of success in various firms. In several instances, productivity was sufficiently raised to permit the firm to improve its competitive and financial position considerably. In others, the program has helped to some degree and is still in the process of implementation. Finally, there have been several instances in which this approach has been quite unsuccessful. In any case, *it should be noted that the usual concept of the pattern reflects only the cost side of the settlement,* and that a truer evaluation of the impact of the pattern requires a knowledge of productivity adjustments as well. With this added dimension, the UAW's bargaining policy becomes more flexible than it otherwise appears, in large companies as well as small.

I would now like to shift my focus briefly to some of the so-called "political" aspects of the union's wage policy. As it relates to pattern bargaining, the term "political" usually refers to pressures on the union leadership to obtain at least as much in negotiations as have other union leaders in order to retain the political allegiance of the membership, to increase the strength of the union as an institution and to satisfy the desires of the membership for a settlement which they consider to be equitable as compared to that being received by other workers

With regard to these issues, the dominant opinion expressed by union representatives was that internal political pressures were *not* generally a significant factor leading to insistence upon a pattern settlement—though again, its importance varied with the size of the bargaining unit. The explanation for this relative lack of emphasis on political considerations stems largely from the organizational structure of the UAW, under which the union official having the major responsibility for conducting the negotiations and making final recommendations to the membership was not directly responsible to that membership or dependent upon them for his political position within the union.

In practically all of the smaller units in Detroit, and in several of the larger units as well, the negotiating team is led either by an international representative or by the officers of an amalgamated local. The international representative may service anywhere from three to five large locals to as many as 30 smaller ones. He is, however, appointed by the regional director and is ultimately responsible only to him. The regional director, in turn, is elected at the biennial convention by delegates from all the locals within his region. Thus, the possible adverse political repercussions on the international representative because of a below-pattern settlement in any one unit, or even in several units, is small as compared to the total number of units within the entire region.

The organization of the amalgamated local provides a similar type of protective buffer to the union officials. In these locals several individual bargaining units, some, quite large, are combined into one political unit having a single set of officers. One of the largest amalgamated locals, for example, includes 80 bargaining units, totalling about 20,000 members, with the largest individual unit including less than 15 per cent of the total. In these locals the political pressures are diffused in the same way as in the case of the international representative; even though the local officers are directly elected by the membership, the defection of several units may pose no threat so long as a substantial margin of support is still available.

I do not mean to imply by this that these union officials are completely unresponsive to the possible political repercussions of their efforts; undoubtedly they are responsive. Furthermore, it is obvious that the influence of political considerations becomes

greater as the unit involved becomes larger; to this extent, these considerations provide an additional explanation for the greater emphasis on the pattern in large, as compared to small, concerns. Nevertheless, this type of organizational arrangement does result in a diffused and indirect relationship between the political security of the union official and his success or failure in obtaining a pattern settlement in the specific units within his jurisdiction.

The preferences of the membership in each unit were of much greater importance in determining the particular *form* of the settlement, however. The study is replete with situations in which wages were substituted for pensions because of the dominant influence of younger men in the shop, or wages were substituted for insurance because a large percentage of women were already covered in their husbands' policies, or insurance was preferred to a SUB plan because of steady employment experience, etc. It is true that, in practically all instances, the international representative was expected to push for adoption of the major fringe programs of the UAW. In many plants, however, considerable substitutions occurred as a result of the preferences of the particular groups involved.

A final factor worth noting is the strength and militancy of the membership in the plant as reflected in its willingness to strike. This consideration was far from common. Nevertheless, it was cited as having affected the outcome, at one time or another, in almost 10 per cent of the companies involved. In one or two instances, added concessions were obtained because "the membership was spoiling for a strike." In most of these situations, however, the emphasis was in the other direction—that is, settlements below pattern, or at least below what the union negotiator felt could have been easily obtained, were negotiated because of the unwillingness of the membership to strike. Size was again a factor, since employer-employee relations are usually closer in smaller firms and employees are more willing to accept the possibility that the employer is having difficulty.

To sum up, I would consider the major points brought out by the study to be the following:

First, considering all the companies in the sample over the entire period studied, there were important downward modifications of the pattern, particularly after 1950. These adjustments, however, were much more prevalent in relatively small nonautomotive firms. In the larger units, particularly those closely tied into the auto industry, pressures to obtain the pattern were much stronger.

Second, the dominant factors explaining these differences in the impact of the pattern were economic in nature. In large companies these factors included primarily the possible indirect effects of a below-pattern settlement on negotiations with other concerns, and the extent to which a below-pattern settlement might result in serious interlocal competition. Other economic considerations more important in a small company were the firm's financial condition and the proportion of its employees currently unemployed.

Third, the union negotiators did not normally consider the elasticity of demand for labor in the firm as a relevant consideration except in a crisis or near-crisis situation. In the absence of such a situation, the union pressed for a pattern adjustment, regardless of the wage-employment relationships involved.

Fourth, internal political considerations were not a major factor forcing a pattern settlement, partly because the major responsibility for negotiating the agreement and recommending its acceptance to the membership did not rest with officials directly and solely elected by that membership. Thus, the political effects of a below-pattern settlement were diffused and remote. Political considerations were stronger, however, in the largest bargaining units.

Fifth, it was widely recognized that a major problem facing several of the firms having financial difficulties was the relatively low level of their productivity, rather than the relatively high level of their hourly wage rates and fringe benefits. In many of these cases, the union has cooperated successfully with the company in raising man-hour output; in many others, however, this policy has met only partial or no success. To the degree that it has been successful, it may be viewed as a method of introducing greater flexibility into the union's bargaining policy.

Considering all the evidence, the study suggests that the union's wage policy is not as responsive to "employment effects" as some researchers have found in other investigations. On the other hand, it is clear that the union does not "impose" the key bargain on *all* firms, regardless of their individual circumstances. Perhaps the most reasonable summation of the union's approach is that given the key bargain as a standard, its primary objective is to enforce

that standard in order, in effect, to "take labor out of competition." However, the union does adjust its demands to the needs of the particular situation, either through a below-pattern settlement or increases in productivity, if these adjustments can be made without presenting any serious threat to this primary objective. **[The End]**

The Impact of Unionism on Wages in the Men's Clothing Industry, 1911-1956

By ELTON RAYACK, University of Rhode Island

WITH THE GROWTH of unionism in the last two decades, there has been much debate both among professional economists and laymen concerning the impact of unions on wages, prices and employment. As Professor Friedman has stated, "the main point of contention is empirical" and it is the proper business of specialists in labor economics to provide the underlying facts.[1] The purpose of this paper is to provide a piece of the facts—the measurement of the effect of the Amalgamated Clothing Workers of America on the wages paid in the men's clothing industry.

The first section of the paper will present the rationale for studying unionism in the men's clothing industry and will set forth some of the implications of economic theory for the ability of unionism to affect wages. The second section will discuss the development of the industry and the union and some significant characteristics of both. The third section will describe some of the basic wage data used in the study, and the remainder of the paper will consist of a period-by-period analysis of the impact of Amalgamated on wages in men's clothing.

Rationale for Studying Unionism in Men's Clothing Industry

There are four kinds of effects a union may have upon wages: (1) a union may affect the interindustry relative wage structure (the wages in one industry relative to the wages in other industries), (2) it may affect the structure of wages within an industry, (3) it may conceivably change the *money* wages of labor as a whole, (4) it may affect the *real* wages of labor as a whole.

Although the present study is concerned only with the first effect—the influence of unionization on the interindustry relative wage structure—it is likely to tell something at least negatively about the last two effects. A union powerless to affect the interindustry relative wage structure is likely to be powerless to affect money and real wages in general.

Among the public generally, and perhaps by a majority of professional economists, the belief is held that the "new" industrial unionism of the CIO has had a great impact on interindustry relative wages. This popular view has recently been challenged by Professors Friedman, Levinson, Rees and a number of others. The supporters of the challenging view have argued that the new unions, until very recently, have been in existence during a period dominated by inflation; the rise of money wages in the newly unionized industries is, therefore, mainly the consequence of monetary expansion rather than unionism. Furthermore, the empirical studies they made did not indicate to them that wages in the newly organized industries rose relative to the wages paid in unorganized segments of the economy. In addition, it has been argued that industrial unionism is weak relative to craft unionism because industrial unions tend to cover unskilled as well as skilled workers and because of the higher labor-cost ratio for the services of labor organized along industrial union rather than craft union lines.[2]

[1] Milton Friedman, "Comment," *The Review of Economics and Statistics*, November, 1955, pp. 401-402.

[2] Professor Friedman argues along the following lines: Union power will probably be significant only if the demand curve for the services of the union members is fairly inelastic at what would otherwise be the competitive price; the less elastic the demand for union labor, the smaller will be the cost in terms of

Although the Amalgamated Clothing Workers of America is not a new union, it is an industrial union covering a substantial number of workers and, therefore, its experiences have obvious relevance to assessment of the strength of industrial unionism. Its importance goes beyond the fact that it is one of a number of industrial unions. A major source of the difficulty in measuring the impact of the new industrial unionism is that the history of most of these unions is confined to the last two decades—a period dominated by inflationary wage and price movements—and there is much evidence to indicate that the effect of unionization is least great during an inflationary period. A study of the Amalgamated, however, given its history of four decades, eliminates the serious problem of being restricted to decades dominated by inflation.

Building on the analysis developed by Professor Friedman (see footnote 2), there is reason to believe that the relative wage effects of unionism may vary over time with the varying degree of unionization of the industry as well as with the varying underlying conditions. With respect to the influence of the varying degree of unionization, the smaller the percentage of the industry unionized, the more substitutes there are for the products of the unionized firms and, hence, the more elastic the demand for their output. However, the more elastic the demand for the output of the unionized firms, the more elastic the demand for the unionized labor and, as a result, the less the relative wage effect of the union.

Two underlying factors tend to make the relative wage impact of a relatively strong union vary over time. First of all, unionism tends to make the money wages of unionized workers rigid, both upward and downward. Two reasons for this have been given. One reason is the existence of contracts of substantial duration, a necessity since continuous collective bargaining would be too costly; until recently cost-of-living escalator clauses were rarely employed. The second reason explaining rigidity in union wages is that unions and employers tend to look beyond the immediate short-run situation; thus inflationary and deflationary movements tend to be discounted until the movements have persisted for some time.[3] As a result of this rigidity, union wages will tend to lag behind upward and downward movements in the general level of wages and prices.

The second underlying factor that tends to make the impact variable over time is the extent of unemployment. Unemployment of union members, especially during periods of widespread unemployment in the economy as a whole, tends to weaken a union, while rising employment tends to strengthen a union.

The wage rigidity and unemployment factors will tend to produce the following kind of variability over time in the impact of a relatively strong union on relative wages: (1) Union wages will tend to fall relative to the general level of wages during periods of full employment and rapid inflation, and during the last stages of a prolonged decline in employment. (2) Union wages will tend to rise relatively during periods of full employment and stable prices, during the beginning of a prolonged decline in wages and employment, during the recovery from a protracted depression and during short but sharp recessions of wages and employment.

Industry and Union Development

By World War I, factory-made clothing had overcome all serious competition from men's clothing made in the home or in custom tailor shops, and was the customary garb of our adult population.[4] Since then

(Footnote 2 continued)
unemployment and of raising wages. Following the joint-demand analysis developed by Marshall, the demand for union labor is likely to be more inelastic the more essential that labor is in the production of the commodity and the smaller the fraction of total cost devoted to that particular type of labor. Even if these conditions exist, for union power to be effective the union must be able to control either the supply of workers or the wage rate offered by employers. Assume a union can control either of these. The importance of the labor-cost ratio accounted for by the factor leads one to predict that a union may be expected to be most powerful when it is composed of a class of workers whose wages are a small part of the total cost of the product that they produce—a condition satisfied along with essentiality by highly skilled workers. Hence, craft unions would tend to be more potent than industrial unions. In addition, unions will tend to be more powerful in the short run than in the long run because of the greater possibility for substituting for union labor in the long run directly through the use of other factors of production, or indirectly through the use of other products. (Milton Friedman, "Some Comments on the Significance of Labor Unions for Economic Policy," *The Impact of the Union*, edited by David McCord Wright (New York, Harcourt, Brace and Company, Inc., 1951), pp. 207, 208.)

[3] Work cited at footnote 2, at pp. 226, 227.

[4] The industry discussed in this study is classified as "Men's, Youth's and Boys' Suits, Coats, and Overcoats"—Group No. 231. Executive Office of the President, Bureau of the Budget, *Standard Industrial Classification Manual, I* (Washington, Government Printing Office, 1945).

Table 1

Men's Clothing Workers in the Amalgamated Clothing Workers of America, 1915 to Present

Year	Members
1915	38,000
1916	48,000
1917	57,000
1918	81,000
1919	144,000
1920	177,000
1921	143,000
1922	130,000
1923	134,000
1924	120,000
1925	125,000
1926	128,000
1927	129,000
1928	120,000
1929	110,000
1930	100,000
1931	100,000
1932	102,000
1933	125,000
1934	135,000
1937	135,000
1940	135,000
1940 to Present	Probably over 90% of workers in A. C. W. A.

Source: Leo Wolman, *Ebb and Flow in Trade Unionism* (New York, National Bureau of Economic Research, 1936), pp. 178-181. The 1937 figure is from the *Daily News Record,* February 15, 1937, p. 1, and the 1940 figure is from R. J. Myers and J. W. Bloch, cited at footnote 15, at p. 397. For 1940 to the present: United States Department of Labor, *Monthly Labor Review,* May, 1947, p. 766.

clothing production has been marked by sharp fluctuations and has lagged relative to the gains in manufacturing production generally. The industry reached peak levels of output (in dollar terms) during a period of "riotous expansion" in 1919-1920, collapsed in 1920, and reached high levels again in 1923. Output and employment then dropped sharply between 1923 and 1925; while half of the loss in employment was recovered by 1929, output continued to decline gradually. Both declined precipitously between 1929 and 1933—the number of wage earners by 20 per cent and output by approximately 50 per cent. Except for a slight drop in employment and output in the latter part of 1937 and early 1938, both rose steadily until 1939. Employment and output then rose sharply between 1939 and 1948, with the industry exhibiting the impact of inflationary pressures throughout the war and postwar period. In mid-1948, the industry went into a slump from which, except for a brief boom in 1950 and early 1951, it has not fully recovered.[5]

The industry is highly competitive. Low capital requirements and a ready supply of raw materials obtainable often on easy credit terms make entry into the industry relatively simple. In addition, a significant segment of the industry is composed of numerous small and highly mobile firms.[6] Furthermore, since manufacturers located in different cities can ship their products to any market with little cost, competition is on a national basis.

Labor cost in the industry is a high percentage of total costs.[7] With the exception of a few small crafts, the labor force in men's clothing is not highly skilled. The industry has depended largely on successive waves of immigration for its labor supply.

The United Garment Workers of America, organized in 1891, was the first national union in the industry. However, it never succeeded in exerting any considerable influences in the men's clothing industry, its main activity being concentrated in the work clothing industry. After some bitter jurisdictional disputes following the organization of the Amalgamated in 1914, the United Garment Workers soon ceased to function in the men's clothing industry.

Founded during the closing months of 1914, the Amalgamated grew rapidly during the war and postwar years. By 1919, the year during which the union succeeded in organizing the major clothing markets,

[5] The output and employment data used in this paper are based on various Census of Manufactures reports of the United States Bureau of the Census, and reports in the industry's trade paper. For citation of sources see Elton Rayack, "The Effect of Unionism on Wages in the Men's Clothing Industry" (Ph. D. dissertation, Department of Economics, University of Chicago).

[6] Of 1,816 firms in the industry in 1947, more than 1,400 employed less than 100 workers while only two firms employed more than 2,500. The industry is concentrated in and about a few large cities. In 1947, ten centers produced more than 75 per cent of the industry's output and employed about 70 per cent of its workers. United States Bureau of the Census, *Census of Manufactures: 1947* (Washington, Government Printing Office).

[7] In a study of 86 industries the Federal Trade Commission found that the men's clothing industry had the second highest ratio of direct labor costs to sales. United States Bureau of Labor Statistics, *Handbook of Labor Statistics, 1947 Edition,* Bulletin No. 916 (Washington, Government Printing Office, 1948), pp. 209-211.

Table 2

Average Hourly Earnings in Men's Clothing (Col. A) and in All Manufacturing (Col. B) and the Relative Wages (Col. C) of Men's Clothing Workers, 1911-1955 (Unadjusted)

Year	Average Hourly Earnings in A (1)	B (2)	C (1+2)	Year	Average Hourly Earnings in A (1)	B (2)	C (1+2)	Year	Average Hourly Earnings in A (1)	B (2)	C (1+2)
1911	.223	.206	1.08	1927	.750	.550	1.36	1942	.778	.861	.90
1912	.225	.216	1.04	1928	.731	.562	1.30	1943	.865	.971	.89
1913	.257	.228	1.13	1929	...	.566	...	1944	.942	1.032	.91
1914	.256	.223	1.15	1930	.701	.552	1.27	1945	1.031	1.039	.99
1915	.257	.229	1.12	1931	...	.515	...	1946	1.215	1.104	1.10
1916	.286	.270	1.06	1932	.506	.430	1.18	1947	1.370	1.259	1.09
1917	.331	.323	1.02	1933	.465	.442	1.05	1948	1.462	1.373	1.07
1918	.408	.404	1.01	1934	.665	.532	1.25	1949	1.426	1.430	1.00
1919	.574	.477	1.20	1935	.654	.550	1.19	1950	1.464	1.508	.97
1920	.692	.555	1.25	1936	.620	.556	1.12	1951	1.597	1.606	.96
1921	.679	.515	1.32	1937	.652	.624	1.04	1952	1.610	1.737	.93
1922	.728	.474	1.54	1938	.650	.627	1.04	1953	1.705	1.844	.92
1923	.757	.522	1.45	1939	.597	.633	.94	1954	1.738	1.893	.92
1924	.760	.547	1.39	1940	.659	.661	1.00	1955	1.774	1.966	.90
1925	.760	.547	1.39	1941	.706	.729	.97	1956	1.859	2.071	.90
1926	.750	.548	1.37								

Sources: The men's clothing industry average hourly earnings figures are from the following sources—for 1914, 1919 and the even-numbered years from 1922 through 1932, United States Bureau of Labor Statistics, *Wages and Hours of Labor in the Men's Clothing Industry: 1932,* Bulletin No. 594 (Washington, Government Printing Office, 1933), p. 2. The BLS figure for 1919 was collected early in that year. The 1919 figure in the table is the BLS figure adjusted to take into account significant wage changes which occurred throughout 1919—see Rayack, cited at footnote 5, Appendix A, for the method of adjustment. The 1911, 1912 and 1913 men's clothing figures were estimated on the basis of data in the source just cited. Bulletin No. 594 presented hourly earnings both for all employees and for "selected occupations" in 1914, and average hourly earnings for "selected occupations" only in 1911, 1912 and 1913. Earnings for all employees were 93.7 per cent of the earnings of the "selected occupations" in 1914. The earnings for all employees were then estimated for the years 1911, 1912 and 1913 by taking 93.7 per cent of the earnings of the "selected occupations" for the respective years. The BLS men's clothing data from 1911 through 1932 are based on surveys conducted over periods ranging from two to five months. For all other years between 1914 and 1926, Paul H. Douglas, *Real Wages in the United States, 1890-1926* (Boston and New York, Houghton Mifflin Company, 1930), p. 101. The 1927 figure is from a continuation of the Douglas study—Paul H. Douglas and Florence Tye Jennison, "The Movement of Money and Real Earnings in the United States, 1926-1928," *Studies in Business Administration,* Vol. I, No. 3 (The University of Chicago). The 1933, 1934 and 1935 figures are from United States Bureau of Labor Statistics surveys conducted for the National Recovery Administration and found in National Recovery Administration, Division of Review, *Employment Payrolls, Hours and Wages in 115 Selected Code Industries,* Work Materials No. 12, December, 1935 (Washington, D. C.). The 1937 and 1939 figures were calculated from man-hours and earnings data presented in the following two publications: Census of Manufacturers, 1937, *Man-Hour Statistics for 105 Selected Industries,* United States Department of Labor, Bureau of Labor Statistics, 1939, p. 4; and by the same departments, Census of Manufacturers, 1939, *Man-Hour Statistics for 171 Selected Industries,* 1942, pp. 4 and 179. The 1947-1955 figures were obtained from issues of the United States Bureau of Labor Statistics, *Monthly Labor Review.* The figures for 1936, 1938 and 1940 through 1946 were constructed from earnings data collected by the Bureau of Labor Statistics for the "Men's Clothing, Not Elsewhere Classified" group. About half the employees in this latter group are in the industry covered by this study. See Rayack, cited at footnote 5, Appendix D, for the method of construction. The "all manufacturing" figures for 1914 and 1919 through 1950 were obtained from United States Department of Labor, *Handbook of Labor Statistics* (1950 Ed.), Bureau of Labor Statistics Bulletin No. 1016, pp. 58 and 59. Since the BLS men's clothing data between 1922 and 1932 are based on surveys conducted over periods ranging from two to five months, the BLS "all manufacturing" annual figures had to be adjusted in order to place them on a monthly basis comparable with the men's clothing series. National Industrial Conference Board monthly and annual wage data were used to make the adjustment in the following manner: NICB monthly manufacturing average hourly earnings figures were obtained for the months during which the BLS collected clothing wage data. These monthly NICB figures were then averaged; the ratio of this average to the NICB average for the year was then multiplied by the BLS annual average to obtain an "all manufacturing" average for the months during which the clothing data were collected. The 1951-1955 figures were obtained from recent issues of the United States Bureau of Labor Statistics' *Monthly Labor Review.* The figures for the missing years (1911-1913 and 1915-1918) were filled in by adjusting the Douglas "payroll" series average upward by 7.9 per cent based on the average differential between the BLS "all manufacturing" series and the Douglas "payroll" series during the years 1909, 1914 and 1919. The Douglas "payroll" series data were obtained from his *Real Wages in the United States,* cited above, at p. 101. The figures for 1942 through 1956 are adjusted for fringe benefits, and the 1947 through 1956 figures are adjusted for changes in the sex composition of the labor force.

probably 90 per cent of the workers in the industry were organized. Although the union won important organizing battles during the following decade, the membership trend was downward. Membership then grew rapidly in the favorable New Deal climate; by 1935, more than 90 per cent of the industry had been organized. Presently, the union represents about 95 per cent of the workers in the industry (see Table 1).

Prior to 1937, agreements were concluded by local unions or "joint boards" through negotiations with individual employers or employers' associations in their respective markets, the union's national officers acting only as advisers. This inevitably led to competition among the various markets with local union leaders initiating wage reductions in order to attract business to their respective markets. Since 1937, all major wage changes have been negotiated between national officers of the union and the Clothing Manufacturers' Association of the United States, the latter representing some 850 firms producing over 90 per cent of the output of the industry in 1947.[8]

Basic Wage Data

The basic wage data used in this study—average hourly earnings in the men's clothing industry and in "all manufacturing" from 1911 through 1956—are presented in Tables 2, 3 and 4. The relative wages of men's clothing workers during those years—average hourly earnings in men's clothing divided by the corresponding figure in "all manufacturing"—are also shown in these tables. Table 2 presents the industry earnings data for all the years of the study.[9]

While the pre-1933 men's clothing data in Table 2 may be compared one year with another, and the post-1932 men's clothing

Table 3

Average Hourly Earnings in Men's Clothing as Estimated from Census Wage and Employment Data, Average Hourly Earnings in All Manufacturing and the Relative Wages of Clothing Workers

Year	A.H.E. in Men's Clothing Based on Census Data (1)	All Mfg. (2)	Relative Wages (1+2)
1923	.645	.522	1.24
1925	.643	.547	1.18
1927	.644	.550	1.18
1929	.636	.566	1.12
1931	Hours data not available	.515	...
1933	.454	.442	1.03
1935	.657	.550	1.19

Source: Estimates of average hourly earnings in Men's and Boy's Suits and Coats were calculated from census wage data in the following manner: The average hours worked per week in 1927 was 40.8 (based on averages of 41 and 40.6 in 1926 and 1928 as presented in United States Bureau of Labor Statistics, Bulletins Nos. 435 and 503). The average hours figure of 40.8 was multiplied by 52 and the product was multiplied by average employment in the industry in 1927 (146,099 wage earners). The resulting total-man-hours-per-year figure was then divided into the total wage figure of $184,613,090 (from the Biennial Census of Manufacturers "Men's, Youths', and Boys', Not Elsewhere Classified" group). The result was an average hourly earnings figure in 1927 of .596. Since the Men's and Boys' Suits and Coats industry (the industry which is the subject of this study) comprised about 75 per cent of the census group, the .596 figure was then adjusted upward on the assumption that the other 25 per cent of the workers in the census classification had average hourly earnings which were about 70 per cent of these in Men's and Boys Suits and Coats. The 70 per cent figure is based on the present differential between workers in Men's and Boys' Suits and Coats and workers in Separate Trousers, the latter comprising the bulk of the 25 per cent which were not in Men's and Boys' Suits and Coats in the census classification. On the basis of these assumptions, the estimated average hourly earnings figure for 1927 is .644. The "all manufacturing" figures are from Table 2.

The differential between the BLS clothing wage data and the wage figures estimated from the census data is about 15 per cent. The estimated figures, however, are probably subject to a good deal of error of estimation as a result of the probable errors in estimating average weekly hours and the differential between wages in Men's and Boys' Suits and Coats and wages in other segments of the census clothing classification. The average hours figures are probably too high since they were all collected during busy seasons in the industry. Consequently the 15 per cent differential is probably too large rather than too small.

[8] Richard A. Lester, *Labor and Industrial Relations* (New York, The Macmillan Company 1951), p. 249.

[9] The figures for 1942 to the present have been adjusted for fringe benefits and changes in the sex composition of the labor force. The adjustments raised the relative wages in clothing no more than 4 per cent during any one of the years and had no significant effect on the wage trend.

data may be compared one year with another, it would be erroneous to compare the pre-1933 with the post-1932 men's clothing data. This difficulty arises because of an upward bias in the pre-1933 men's clothing earnings figures relative to the post-1932 figures. The bias arises from the decline in the average size of firm sampled in the men's clothing industry relative to the average size of firm in the industry;[10] the heavier weight given to the larger firms in the pre-1933 surveys led to an overstatement of average hourly earnings. This is borne out by a comparison of the data in Table 3 with the data in Table 2. Table 3 presents men's clothing average hourly earnings figures as estimated from census wage data. The estimates based on the census data during the 1920's are about 15 per cent lower than the Bureau of Labor Statistics (BLS) men's clothing figures for the same year. The differential between the two virtually disappears in 1933 and 1935, indicating an elimination of the upward bias.

Table 4 presents the BLS men's clothing data for the preunion years adjusted downward in order to eliminate the upward bias just discussed.

In order to make valid comparisons between wages in the pre-1933 period with wages in the post-1932 period, therefore, it is necessary to utilize Tables 2, 3 and 4.

Table 4

Adjusted Bureau of Labor Statistics Average Hourly Earnings Figures for Men's Clothing and the Relative Wages of Clothing Workers Based on Those Adjusted Figures, 1911-1914

Year	Adjusted Men's Clothing A. H. E.	Relative Wages
1911	.190	.92
1912	.191	.88
1913	.218	.96
1914	.218	.98

Source: To obtain the adjusted average hourly earnings figures, the BLS Men's Clothing figures in Table 2 have been adjusted downward by the average differential of 15 per cent during the 1920's between the average hourly earnings figures calculated from census wage data (Table 3) and the BLS average hourly earnings figures in column 1 of Table 2.

The downward adjustment of 15 per cent is probably too large due to the probable errors involved in estimating average hours and the wages of men's clothing workers outside the Men's and Boys' Suits and Coats industry (see source in Table 3). The average relative wage figure between 1911 and 1913 should probably be about 95.

1911-1920 Period

The 1911-1920 period includes the pre-Amalgamated years of 1911 through 1913, the war years during which a number of major clothing markets became strongly unionized, and the post-World War I inflationary boom of 1919-1920.

The Amalgamated could have influenced wages in two possible ways during World War I. On the one hand, unionism in the presence of inflation could have tended to introduce a wage lag. On the other, the growth of unionism itself could have exerted an upward pressure on wages. Since the industry was very poorly organized at the beginning of the war, the union at first could have produced very little wage lag effect. As the industry became unionized the wage lag effect would have become more important. The evidence indicates, however, that despite the decline in the relative wages of clothing workers from 1.15 to 1.01 between 1914 and 1918 (Table 2), the union did have a substantial effect on wages and that, therefore, the relative wage decline must be explained by some factor other than unionism.

Table 5 indicates that between 1914 and 1919,[11] the union raised wages about 15 to 20 per cent in the markets which became unionized during those years. During 1911, 1912 and 1913, there was essentially no differential between the cities which became unionized and those which remained nonunion. In 1914 a 6 per cent differential arose in favor of the union markets and in 1919 the differential widened to 20 per cent.

The decline in relative wages for the industry as a whole between 1914 and 1918 may be explained by the relative decline in activity in the industry. Employment in men's clothing was stable between 1914 and 1919, while in "all manufacturing" it rose by about 27 per cent. Relative output in men's clothing (the ratio of output in men's clothing to output in manufacturing) also declined somewhat during those years.

[10] Based on correspondence with the Division of Manpower and Employment Statistics of the United States Bureau of Labor Statistics.

[11] The figures for 1919 are based on data collected for the most part between January 1 and March 19, 1919. United States Bureau of Labor Statistics, Bulletin No. 265 (Washington, Government Printing Office), p. 28.

Table 5

Weighted Average Hourly Earnings of Markets Which Became Unionized Between 1914 and 1919 and Markets Which Remained Nonunion, 1911-1919

	1911	*1912*	*1913*	*1914*	*1915*
Unionized markets [a] ...	.230	.230	.272	.269	.510
Nonunion markets [b] ...	.237	.236	.268	.253	.42[illegible]

Sources: Based on the adjusted average hourly earnings figures presented in Table 9. The figures have been weighted by employment in the various markets.

[a] New York, Chicago, Rochester, Baltimore and Boston became unionized between 1914 and 1919.

[b] Cincinnati and Philadelphia were nonunion markets throughout these years.

Earnings in the men's clothing industry increased rapidly between 1918 and March, 1920,[12] and relative wages rose from 1.01 to 1.33, the major part of the wage increase in clothing occurring during the latter half of 1919 and the first few months of 1920. However, the increase in wages in clothing should not be attributed to unionization; on the contrary, there is evidence indicating that clothing workers' wages would have risen to even higher levels had there been no union. The clothing wage rise resulted from a pronounced increase in the demand for the services of clothing workers at the same time that sharply curtailed immigration had cut off an important source of labor for the industry. The changes in these underlying conditions, operating through and often outside the collective bargaining process, raised wages sharply.

The great increase in the demand for clothing during this period indicates a greatly increased demand for the services of clothing workers. In the brief period from early spring, 1919, to April, 1920, the orders received by wholesale clothiers more than doubled. The trade paper reported that despite overtime work during a normally slack period, houses were all behind in filling their orders. Price movements reflected the greatly increased demand. Between March, 1919, and March, 1920, the prices of a suit, an overcoat and heavy trousers had increased by 56, 78 and 75 per cent, respectively, substantially more than the 22 per cent increase in the National Industrial Conference Board (NICB) cost-of-living index over the same period.[13] So wildly had prices risen during this period that the United States Assistant Attorney General called for a conference to discuss steps to check the rising price of clothing.[14]

In addition to these conditions which indicate an increased demand for labor, there was a significant change in the labor supply conditions which also operated to force clothing wages upward. Starting in 1915, there was a drastic curtailment of immigration from Southern and Eastern Europe. Prior to this period, immigrants from these areas had provided a tremendous pool of labor for the clothing industry.[15]

By mid-1919, the industry's trade papers were already reporting labor shortages and the impossibility of satisfying the demands of buyers "until immigration again assumes its customary volume." Labor "pirating" on the part of employers was extensive and wage rates were often bid up to levels *above* the union rates. The extent of the pirating is revealed in an arbitration decision in November, 1919, which gave increases to 35 per cent of the workers in the industry. The decision was based on the fact that 65 per cent of the workers had already received increases above the increases awarded in August of that year, and that it was only fair to grant increases to the other 35 per cent who had not secured increases through violation of the August decision.

Union officials complained that manufacturers frustrated the Amalgamated's attempt to "maintain order." Employers, said the union leaders, were "overbidding one another" and "looking only for immediate profit" by "overpaying their workers" in order "to entice workers from one another." The trade paper reported that the refusal of

[12] The March, 1920 figure is based on the authors' estimates of hourly earnings in men's clothing and in "all manufacturing." For the method of making the estimate see Rayack, work cited at footnote 5, at Appendix A. See Table 2 for the 1918 figure.

[13] National Industrial Conference Board, *Changes in the Cost of Living,* Research Reports Nos. 28 and 60 (New York).

[14] *The New York Times,* December 20, 1919, p. 9.

[15] *Reports of the Immigration Commission,* United States Senate, 61st Cong., 3d Sess., Document No. 756, Vol. III, and Annual Reports of the Commissioner-General of Immigration to the Secretary of Commerce and Labor (Washington, Government Printing Office, 1911-1919). As late as 1930, three out of five workers in the industry—the highest percentage of any industry—were foreign born. R. J. Myers and J. W. Bloch, "Men's Clothing," *How Collective Bargaining Works,* ed. by Harry A. Millis (New York, The Twentieth Century Fund, 1942), p. 393.

Table 6

Degree of Unionization in Various Clothing Markets, 1914-1932

	1914 to 1918	*1919*	*1922*	*1924*	*1926*	*1928*	*1930*	*1932*
New York	P	U	U	U	U	U	U	U
Chicago	P	U	U	U	U	U	U	U
Rochester	NU	U	U	U	U	U	U	U
Boston	P	U	U	U	———	Weak Unionism	———	
Cincinnati	NU	NU	NU	NU	U	U	U	U
Baltimore	P	U	U	U	U	—Very Weak—		NU
Philadelpia	NU	Weak	NU	NU	NU	NU	U	U
Buffalo	n.a.	NU	NU	NU	NU	NU	NU	NU
St. Louis	n.a.	NU	NU	NU	NU	NU	NU	NU
Cleveland	n.a.	NU	———	Very Weak	———		NU	NU
Eastern Pa.	n.a.	NU	NU	NU	NU	NU	NU	NU

Source: Based on report in the industry's trade paper, *The Daily News Record*, The Amalgamated's Documentary Histories, and several studies of unionism in the clothing industry. See Rayack, cited at footnote 5, at pp. 18-26.

Note: Meaning of letters:
U = strong union market
NU = nonunion market
P = period of growing unionism

union officials to issue transfer cards made it somewhat more difficult for workers to take advantage of "labor pirating." However, despite union-imposed penalties for members found guilty of raising wages above union scales, it was impossible in certain operations to prevent the actual rates paid from climbing far above the rates set by the union contract.[16]

1920-1932 Period

The postwar inflationary conditions in the industry lasted into April, 1920. At the end of that month the industry plunged, along with the rest of the economy, into a severe depression which lasted through most of the 1920-1922 period.[17]

The depression resulted in some drop in wages in men's clothing as well as in manufacturing. The decline in wages in manufacturing, however, was substantially greater than in clothing, and it was not until the late 1920's that money wages in manufacturing reached their 1920 level. As a result, the relative wages in men's clothing remained substantially above the preunion level, though declining, throughout the 1920's.

None of the high relative wages during the 1920's can be attributed to a relatively high demand for men's clothing. Throughout most of the 1920's, relative output and employment in men's clothing were less than they were in 1909 and 1914. It seems likely that the high relative wages compared to the preunion years was to some extent, though how much cannot be stated exactly, a consequence of reduced immigration.

Fortunately, since all of the industry was not organized during the 1920's, it is possible to make comparisons between the union and nonunion sectors of the industry. In 1911, 1912 and 1913, there was essentially no differential in favor of union cities (cities which became unionized during the 1914-1919 period) over nonunion cities (Cincinnati and Philadelphia), and only a small differential in 1914 (Table 5). This indicates that the wages in the nonunion cities may measure relatively well what wages in the union cities would have been in the absence of unionization.

In 1911-1914 the two nonunion cities of Cincinnati and Philadelphia[18] had unadjusted average hourly earnings almost the same as "all manufacturing" had for those years (based on Tables 2 and 8). In 1922 the average for these two cities was about 19 per cent greater than in "all manufac-

[16] For numerous reports revealing the extent of the labor shortage and the wild bidding-up of wages, see Rayack, work cited at footnote 5, at Ch. IV and Appendix B.

[17] *Documentary History of the Amalgamated Clothing Workers of America*, 1920-1922, Appendix, p. xii.

[18] Wage data are not available for other nonunion cities for the pre-1914 period.

Table 7

Weighted Adjusted Average Hourly Earnings in Union and Nonunion Markets and Percentage Differentials Between the Two Groups, 1922-1926

Year	Weighted Adjusted A. H. E.* Union Markets	Nonunion Markets	Percentage Differentials
1922.....	$.785	$.671	17
1924.....	.853	.748	14
1926.....	.873	.776	12

Source: The adjusted hourly earnings figures in Table 9 have been weighted by employment in the various markets to obtain the averages in this table. See Table 9 for method of adjusting earnings for intercity differences other than unionism.

* The union markets in 1922, 1924 and 1926 include New York, Chicago, Rochester, Boston and Baltimore. The nonunion figures include Cincinnati and Philadelphia for 1922 and 1924 and only Philadelphia for 1926, since Cincinnati became a union market late in 1925. It was not possible to carry this type of analysis beyond 1926 since both Baltimore and Boston became substantially nonunion markets after 1926.

turing," and in 1924 about 14 per cent greater. In Philadelphia, which was still nonunion, wages were 20 per cent greater than in manufacturing in 1926, and 9 per cent greater in 1928. (Cincinnati was unionized late in 1925.) These data suggest that in the absence of unionism, relative wages in the first part of the 1920's would have been about 14 to 20 per cent higher than they were in 1911-1914, and in the late 1920's would have declined to about 9 per cent about the 1911-1914 level.

Since relative wages in the preunion period were about 1.10 (Table 2), the data just discussed indicate that in the absence of unionism, relative wages in the 1922-1928 period would have changed from about 1.25 to 1.32 to about 1.20. In fact, relative wages declined from 1.54 to 1.30. Thus one estimate of the impact of unionism is that in 1922 it raised average hourly earnings 17 to 23 per cent higher than they would have been in the absence of the union, and that by 1928 the impact had fallen to about 8 per cent.

These findings may be checked by comparing earnings in each of these years in union and nonunion cities. As Table 7 shows, the differential in favor of the union markets was 17 per cent in 1922 and declined to 12 per cent by 1926.

Thus the two methods of estimating the union impact on wages during the 1920's indicate that the Amalgamated did have an upward effect on wages. The amount of the wage effect was probably little more than 15 per cent at the peak in 1922, and probably declined to something less than 10 per cent in 1928-1929.

Between 1922 and 1930, adjusted average hourly earnings in the three major unionized markets of New York, Chicago and Rochester were clearly higher than in the three major nonunion markets of Philadelphia, St. Louis and Cleveland, and the smaller nonunion markets of Buffalo and Eastern Pennsylvania. Boston and Baltimore started out as strong union markets. Significant nonunion forces developed in Boston after 1926, though neither the dating of this development nor its extent can be precisely set forth. Earnings in Boston rose through 1926 and then declined slightly through 1930. Unionism lost much of its hold on the Baltimore clothing market between 1926 and 1928, and wages dropped sharply. Starting out with the highest adjusted earnings figure in the industry in 1922, Baltimore ended with the lowest in 1930. In Cincinnati, which was unionized in 1925, earnings rose sharply between 1922 and 1928, and then declined between 1928 and 1930 (see Table 9).

The wage differentials between the union and nonunion markets seem to have had a serious effect upon the shares of output and employment held by the union markets.[19] Between 1923 and 1929, the shares of employment and output held by the unionized markets declined steadily from 48.8 and 63.1 per cent, respectively, in 1923 to 37.9 and 52.9 per cent in 1929. It is also significant to note that almost all of the decline in the union markets came in Chicago and New York, the two high-wage markets, whereas Rochester, the union market with by far the lowest wages, had practically no change in output or employment. The reverse movement occurred in the nonunion markets; in these, employment and output grew from 39.4 and 26.4 per cent, respectively, in 1923 to 49.3 and 36 per cent in 1929. In the "mixed markets"—those in which the extent of unionization varied significantly during this period—output and employment both rose slightly. These markets should be looked at separately:

[19] The figures on shares of output and employment are based on data obtained from the United States Department of Commerce, Bureau of the Census. *Fifteenth Census of the United States Manufactures: 1929* (Washington, Government Printing Office, 1933), Vol. II.

Table 8

Average Hourly Earnings of Men's Clothing Workers, 1911-1932 (Unadjusted)

Market	*1911*	*1912*	*1913*	*1914*	*1919*	*1922*	*1924*	*1926*	*1928*	*1930*	*1932*
New York	.240	.226	.291	.281	.527	.847	.889	.876	.859	.799	.583
Chicago	.240	.246	.275	.278	.463	.789	.869	.886	.915	.900	.649
Rochester	.233	.236	.258	.270	.431	.595	.672	.716	.707	.711	.546
Boston	n. a.*	n. a.	.306	.290	.495	.586	.695	.719	.698	.695	.480
Cincinnati	.210	.209	.244	.218	.314	.577	.637	.656	.731	.712	.486
Baltimore	.176	.192	.211	.227	.513	.642	.585	.570	.467	.454	.295
Philadelphia	.210	.210	.234	.226	.446	.552	.612	.660	.613	.632	.490
Buffalo	n. a.	n. a.	n. a.	n. a.	.374	n. a.	n. a.	.619	.553	.612	.378
St. Louis	n. a.	n. a.	n. a.	n. a.	.330	n. a.	n. a.	.522	.528	.495	.349
Cleveland	n. a.	n. a.	n. a.	n. a.	.418	n. a.	n. a.	.629	.629	.575	.410
Eastern Pa.	n. a.	n. a.	n. a.	n. a.	n. a.	n. a.	.368	.398	.381	.327	.210

Source: The data are based on average hourly earnings statistics presented in BLS Bulletins No. 135 for 1911 and 1912, No. 187 for 1913 and 1914, No. 265 for 1919, No. 387 for 1924, No. 435 for 1926, No. 557 for 1928, and No. 594 for 1930 and 1932. The figures for 1911 through 1922 were calculated from occupational wage data in the various bulletins.

* n. a. = not available.

Cincinnati became unionized in 1925. Between 1923 and 1925, its share of output and employment rose from 3.1 per cent to 4.3 per cent and 3 per cent to 4.7 per cent, respectively. Its share of employment remained stable between 1925 and 1927, but declined to 3.9 per cent in 1929. Its share of output declined steadily to 3.6 per cent in 1929.

Baltimore was a strong union market in 1923 but the union lost much of its strength there after 1926. Except for 1925, Baltimore's share of output remained fairly stable, rising slightly from 4.4 to 4.8 per cent. Its share of employment in 1925, 1927 and 1929, though fluctuating somewhat, exceeded its share in 1923. Its peak share of employment was 6.3 per cent and occurred at the end of the period; its low, 5 per cent, occurred in 1923.

Boston was a union market in the early 1920's and became substantially nonunion in the latter half of the decade. There were no marked changes in output and employment in Boston, though the long-term trend for both was slightly downward.

During the 1930-1932 depression, the relative wages of clothing workers fell from 1.27 to 1.18, the lowest level in 14 years. The depression level of 1.18, however, was still somewhat higher than the preunion level of approximately 1.10, indicating that the Amalgamated did exert some upward pressure on wages during those years.

That the Amalgamated did have some upward effect on wages during the depression is supported by data indicating that the smallest percentage declines in adjusted hourly earnings (about 22 per cent) occurred in the two strong union markets of Rochester and Philadelphia, while the largest percentage declines (ranging from 33 to 38 per cent) occurred in the nonunion markets of Baltimore, Eastern Pennsylvania and Buffalo, and the weak union market of Boston. The percentage declines in the union markets of New York (27 per cent) and Chicago (31.8 per cent) were about equal to or somewhat higher than the decline of 28 per cent for the industry as a whole. Although the percentage declines in the nonunion markets of Cleveland and St. Louis were less than the declines in the strong union markets of Chicago and Cincinnati, it must be noted that the two union markets started out at much higher wage levels (see Table 9).

NIRA Period (1932-1935)

The Amalgamated, through the part it played in the construction and administration of the men's clothing code under the National Industrial Recovery Act (NIRA), exerted a powerful influence on wages during this period. Average hourly earnings in the industry rose about 43 per cent and relative wages from 1.05 to 1.25 between 1933 and 1934 (Table 2). The rapid and sharp rise in relative wages may be attributed to the fact that the men's clothing code was one of the first established under the NIRA.[20]

[20] The men's clothing code was in effect from September 11, 1933, to May 27, 1935. The labor sections of the code provided a 40 cents per hour minimum wage in northern sections of the industry, 37 cents per hour in southern sec-

(Continued on following page)

Table 9

Adjusted Average Hourly Earnings in Ten Clothing Markets, 1911-1932

Market	*1911*	*1912*	*1913*	*1914*	*1919*	*1922*	*1924*	*1926*	*1928*	*1930*	*1932*
New York	.240	.226	.291	.28[illegible]	.527	.847	.889	.876	.859	.799	.583
Chicago	.220	.225	.252	.24[illegible]	.463	.781	.878	.923	.934	.849	.579
Rochester	.240	.243	.266	.27[illegible]	.501	.654	.757	.814	.794	.808	.628
Boston	...	...	.303	.28[illegible]	.576	.674	.799	.856	.830	.827	.558
Cincinnati	.233	.232	.271	.24[illegible]	.401	.704	.786	.830	.870	.818	.559
Baltimore	.229	.249	.274	.28[illegible]	.611	.891	.836	.826	.640	.590	.388
Philadelphia	.239	.239	.266	.25[illegible]	.446	.642	.703	.776	.713	.735	.570
Buffalo	...	...	...	...	.374	...	...	.673	.588	.644	.402
St. Louis	...	...	...	...	.413	...	...	.678	.668	.611	.430
Cleveland	...	...	...	...	.394	...	...	.662	.648	.605	.466

Source: The average hourly earnings figures in Table 8 were adjusted in order to correct for factors (other than unionism) causing differences in earnings. For the years from 1922 to 1932 the correction was made in the following manner: Average annual earnings were obtained for all manufacturing for each of the census years for each of the cities covered by Table 8. (These figures were obtained from the United States Department of Commerce's *Census of Manufactures.*) Since the census figures are for odd years and the data in the table are for even years, in order to obtain even year estimates of annual earnings the adjacent census figures were averaged. New York was then chosen as the base city and its base was set equal to 1.0. Then in each year the average annual earnings of the other cities were divided by the average for the base city. The resulting figures were then divided into each of the average hourly earnings figures in Table 8. This resulted in an "average hourly earnings" figure crudely corrected for factors other than unionism that produce intercity differences. For 1911 and 1912 the indexes of average annual earnings were estimated by averaging the census index numbers for 1909 and 1914. The 1913 data were adjusted by using the index of the census earnings for 1914.

New York State monthly wage data clearly indicate the influence of the NIRA on the general wage level as wages in New York State's men's clothing industry rose sharply in the months immediately following the adoption of the clothing code. For the five months prior to the month the code went into effect, hourly earnings in New York State averaged 48 cents. The following four months saw average hourly earnings rise to 64 cents, a one-third increase over the five preceding months. Wages continued to rise and in 1934 averaged 70 cents per hour. For the last five months of the code, earnings averaged 69 cents per hour.[21]

The significance of the clothing code provisions is also indicated by examining "classified earnings-per-hour" data for the years prior to the adoption of the code. These data show that in 1932 fully 34.7 per cent of the workers in the men's clothing industry were receiving less than the 40 cents per hour later established by the code as a minimum wage for all workers in the industry. In addition, 70 per cent of the cutters were receiving less than the $1 per hour minimum later imposed by the code.[22] The imposition of the minimum wage provisions was bound to have a profound upward effect upon the industry's general wage level.[23]

(Footnote 20 continued)
tions, a $1 per hour minimum for cutters, a 75 cents per hour minimum for off-pressers, and maxima of 36 hours per week and eight hours per day for all workers in the industry with no reduction in pay. The code also called for the maintenance of skill differentials after the new minima were established. See Federal Codes Incorporated, *A Handbook of NRA*, edited by Lewis Mayers (New York and Washington, 2d Ed.), pp. 680-683. At the time that the men's clothing code went into effect, probably less than 20 per cent of all the employees in the economy ultimately to be covered by NRA codes were then covered. See United States National Recovery Administration, Research and Planning Division, *Tables on the Operation of the NIRA* (Washington, D. C., February, 1935).

[21] New York State collected average hourly earnings and average weekly hours data on a monthly basis for the men's clothing industry starting in April, 1933. From these figures it was possible to calculate average hourly earnings data for New York State. The New York State figures are significant in that during 1934 about 46 per cent of the garments cut by the industry were cut in that state's clothing markets, and its workers accounted for more than 30 per cent of the industry's employees. See New York State Department of Labor, *Industrial Bulletin*, various monthly bulletins in 1933, 1934 and 1935, and United States National Recovery Administration, Division of Review, *Evidence Study No. 24*, prepared by J. W. Hathcock, preliminary draft, 1935, p. 13.

[22] United States Bureau of Labor Statistics, Bulletin No. 594 (Washington, Government Printing Office), pp. 40-46. Included in the classified-earnings section of the BLS survey were 26,090 employees.

[23] It is necessary to point out that the sharp rise in wages during the 1933-1934 period cannot

Table 10

Average Hourly Earnings of Men's Clothing Workers in Major Markets and Average Hourly Earnings in Major Markets as a Per Cent of Earnings in the Chicago Market, 1928, 1932 and 1934

Market	Average Hourly Earnings in			Average Hourly Earnings as % of Chicago Earnings		
	1928	1932	1934	1928	1932	1934
Baltimore	.467	.295	.562	51.0	45.5	72.1
Boston	.698	.480	.715	76.3	74.0	91.4
Buffalo	.553	.378	.628	60.4	58.2	80.5
Chicago	.914	.649	.780	100.0	100.0	100.0
Cincinnati	.731	.486	.653	79.9	74.9	83.7
Cleveland	.629	.410	.705	68.7	63.2	90.4
New York	.859	.583	.752	93.9	89.8	96.4
Philadelphia	.613	.490	.706	67.0	75.5	90.5
Rochester	.707	.546	.670	77.3	84.1	85.9
St. Louis	.528	.349	.621	57.7	53.8	79.6
Total U. S.	.731	.506	.662	79.9	78.0	84.9

Sources: The 1928 and 1932 average hourly earnings figures are from United States Bureau of Labor Statistics, Bulletins Nos. 503 and 594. The 1934 figures are from United States National Recovery Administration, Division of Review, *Evidence Study No. 24,* prepared by J. W. Hathcock, preliminary draft, 1935, p. 10.

The extent of the influence of the clothing code is also shown by the substantial narrowing of intermarket differentials. During 1928-1932, despite unionization of the major clothing markets, widespread intermarket differentials existed among the major unionized markets as well as between union and nonunion markets (Table 10). Differentials were narrowed significantly between 1932 and 1934, with by far the most profound changes taking place in the four low-wage markets of Baltimore, St. Louis, Cleveland and Buffalo. Those four markets received the largest wage increases in both percentage and absolute terms. In absolute terms the increase in the four markets was, on the average, approximately twice the increase received in the three high-wage markets. The influence of the minimum wage provisions of the code is clearly indicated by the manifestly high correlation between the percentage of wage increase in the various markets between 1932 and 1934, and the percentage of workers receiving less than 40 cents per hour in those same markets in 1932 (Table 11).

Post-NIRA Period (1935-1939)

Relative wages in men's clothing declined substantially and steadily between 1935 and 1939, from 1.19 to .94 (Table 2). The decline may be explained by three factors: the probable influence of the new CIO unions on the "all manufacturing" series, the end of the NRA early in 1935, and the decline in output and employment in men's clothing relative to output and employment in "all manufacturing."

The studies of Professors Ross, Levinson and others indicate that unionism may have raised wages in unionized manufacturing industries by about 10 per cent by the late 1930's.[24] Since roughly 40 per cent of the

(Footnote 23 continued)
be explained by a sharp increase in the demand for labor. Between 1933 and 1934, the value of the products produced in the men's clothing industry rose by a mere 1.3 per cent. While the index of employment (1929 = 100) rose from 77.8 to 81.4 between 1933 and 1934, the average hours worked per week was a low 25.7 for the last six months in 1934. Prior to the introduction of the code, "the probable excess of labor unemployed in 1933 was around 48,000." Hathcock, work cited at footnote 21, at pp. 37, 75, 84, 100 and 134. The ratio of clothing output to all manufacturing output fell from .75 to .63 between 1933 and 1935.

[24] H. M. Levinson, "Unionism, Wage Trends, and Income Distribution, 1914-1947," *Michigan Business Studies* (Ann Arbor, The University of Michigan Press), pp. 55-62. Arthur M. Ross, *Trade Union Wage Policy* (Berkeley and Los Angeles, University of California Press, 1948), pp. 114-119. Sumner H. Slichter, "Do the Wage-Fixing Arrangements in the American Labor Market Have an Inflationary Bias?" *American Economic Review,* May, 1954, pp. 336, 337. In his discussion of Professor Slichter's paper in the same issue of the *American Economic Review* (p. 363), Professor Albert Rees agrees that unions did have an upward effect on wages in manufacturing in 1937.

workers in manufacturing were unionized during the late 1930's,[25] unions may have succeeded in raising wages in manufacturing by about 4 per cent. Eliminating the 4 per cent union effect on the "all manufacturing" series would raise the relative wages of clothing workers in 1939 to about 98.

The end of the NRA early in 1935 seriously weakened union control over the industry. With the onset of the depression in 1937, joint boards in the various markets made individual wage concessions in order to bring work into their markets and to protect themselves against other markets. As a result, a wage increase of 12 per cent in 1937 was whittled away.[26]

Last, the recovery in men's clothing between 1933 and 1937 was significantly weaker than the recovery in manufacturing generally. The ratio of employment in men's clothing relative to employment in "all manufacturing" declined from 1.06 to .94, and the ratio of output in men's clothing to output in "all manufacturing" declined from .75 to .51.

War and Postwar Inflation (1939-1948)

Average hourly earnings in the clothing industry rose steadily and steeply from 1939 through 1948. The relative wages of clothing workers declined during the early years of the war, approached an all-time low in 1943, and then rose sharply during the postwar prosperity in the industry to a postwar high of 1.10 (Table 2).

Evidence clearly shows, however, that the sharp rise in wages in the men's clothing industry during this period was not due to union pressures, but rather to the combined influence of the great demand for the industry's products and the steady high level of employment in the economy. These two factors produced severe labor shortages in the industry and powerful upward wage pressures.

The granting of voluntary wage increases by employers and the existence of labor shortages in the industry *before and after* every contractual wage adjustment indicate that the union was not responsible for the increases. The voluntary increases by employers, that is, increases which did not arise from union-management negotiations indicate that competitive market pressures were operating to raise wages. The existence of labor shortages *after* the signing of contracts calling for wage increases indicates that the wage rates agreed to were below the equilibrium level. There is also some evidence that the union slowed down labor turnover arising from the attempts of union members to shift to higher paying jobs.

When the 1942 agreement was signed the trade paper reported that "employers have been making a number of individual wage increases independent of union demands."[27] During negotiations in 1945, manufacturers objected to union demands stating that "they have given numerous wage increases since May, 1942, to stop workers from seeking better paying jobs in war plants." The employers' statements are supported by the fact that hourly earnings in the industry rose over 30 per cent between 1942 and 1945 despite the fact that no contractual wage increases were granted between May, 1942, and December, 1945. The trade paper stated that the union was said to be cognizant of the voluntary increases.[28] The end of World War II saw state and federal agencies being

Table 11

Per Cent of Workers Receiving Less Than 40 Cents per Hour in 1932, Per Cent Increase in Average Hourly Earnings, 1932-1934, and Absolute Increase in Average Hourly Earnings, 1932-1934, in Ten Men's Clothing Markets

Market	% of Workers Below 40¢ per Hour in 1932	% Increase in A. H. E., 1932-1934	Absolute Increase in A. H. E., 1932-1934
Baltimore	84	91	.267
St. Louis	72	78	.272
Cleveland	52	72	.295
Buffalo	64	66	.250
Boston	42	49	.233
Philadelphia	33	44	.216
Cincinnati	37	34	.167
New York	23	29	.169
Rochester	24	23	.124
Chicago	9	20	.131

Source: Based on data in Table 10 and United States Bureau of Labor Statistics Bulletin No. 594.

[25] The estimate is based on data from Florence Peterson, *Handbook of Labor Unions* (Washington, D. C., American Council on Public Affairs).

[26] Myers and Bloch, work cited at footnote 15, at pp. 436-437.

[27] *Daily News Record,* March 11, 1942, p. 1.

[28] *Daily News Record,* December 7, 1945, pp. 1, 4.

asked to assist in apprenticeship programs[29] and to lower immigration bars since "all markets face shortages of labor."[30] Shortly after the effective date of the 1945 wage increase, "labor shortages" were still acute.[31] The trade paper again reported the granting of "many voluntary increases—since December 10, the date of the 1945 general wage increase." The employers expressed the fear that in the face of the labor shortage, the union would not be able to stabilize the situation by controlling the demands of the workers.[32] Sales continued to rise sharply through 1947 so that despite the November, 1946 wage increase, labor shortages in the men's clothing industry were still serious.[33] Even after the third postwar wage increase in November, 1947, a nationwide survey by the Clothing Manufacturers Association disclosed an "acute shortage" of labor that could not be met "from the labor ranks within the U. S." With the "full backing" of the union, the secretary of the association said that the Clothing Manufacturers Association had 5,000 affidavits guaranteeing employment to that many immigrants if arrangements could be worked out.[34] Approval of the plan was "expected to open the way toward breaking a serious bottleneck in the clothing industry."[35]

Why relative wages declined during the early years of World War II cannot be explained with any precision. Wages in the industry were frozen by the Anti-Inflation Act of 1942.[36] As a result the union received no contractual wage increases between May, 1942, and December, 1945. This suggests the likelihood that the union held the line on wages during the early years of the war, but as the inflationary pressures mounted and labor turnover increased, employers granted individual wage increases *outside* the union contract.

1948-1956 Period

Except for the mild recessions of 1949 and 1953-1954, the 1945-1956 period was one of full employment and relatively stable prices for the economy as a whole. Despite these conditions, the union was unable to maintain the relative wage position reached during the postwar boom. The relative wages of men's clothing workers declined steadily from a postwar high of 1.10 in 1946 to a postwar low of .90 in 1956. Whatever relative wage gains were made during the 1920's relative to the preunion period had virtually disappeared by 1956 (Table 2).

The decline in relative wages between 1946 and 1956 probably resulted from the influence of three factors: (1) the decline in output and employment in the industry, (2) the industry's pension program and the age of its labor force and (3) the probable influence of unionism on the "all manufacturing" series.

Output and employment in men's clothing during this period declined substantially, both relatively and absolutely. Between 1947 and 1954 the number of production workers in men's clothing declined 16 per cent while value added by manufacture fell about 19 per cent. Employment in men's clothing relative to employment in "all manufacturing" dropped from .75 in 1947 to .58 in 1953, and relative output plummetted from .92 to .48 between 1947 and 1954.

If the clothing workers had been mobile during this period of full employment, the decline in the demand for their services would probably not have led to such a sharp decline in their relative wages.[37] However, the extreme age of the labor force in men's clothing probably made a significant segment of that force highly immobile for two reasons: (1) the difficulty of obtaining jobs in other industries because of the age factor and (2) the reluctance to move on to other industries because of the loss of pension rights and other benefits and ties acquired with seniority.

The nature of the industry's pension program also contributed to making the older

[29] *Daily News Record,* October 2, 1945, p. 9.
[30] *Daily News Record,* October 12, 1945, p. 4.
[31] *Daily News Record,* September 3, 1946, p. 12, and September 7, 1946, p. 11.
[32] *Daily News Record,* September 9, 1946, p. 9.
[33] For reports on various markets see *Daily News Record,* October 13, 1947, p. 8, October 15, 1947, p. 10, and October 29, 1947, p. 8.
[34] *New York Times,* March 17, 1948, p. 21.
[35] *New York Times,* February 27, 1948, p. 37.
[36] *Report of the General Executive Board and Proceedings of the Fourteenth Biennial Convention,* pp. 17-19.
[37] In men's clothing 42 per cent of the employees are over 50 years of age and 65 per cent are over 40; the corresponding figures for "all manufacturing" are 21 and 42 per cent. Men's clothing data were obtained through correspondence with the executive director of the Amalgamated Insurance Fund. The "all manufacturing" figures are based on data presented in United States Bureau of the Census, 1950 Census of Population, *Industrial Characteristics,* Special Report P-E No. 1D (Washington, Government Printing Office), pp. 24, 27. The Bureau of Labor Statistics reported that "few manufacturing industries have so high a proportion of older workers." United States Department of Labor, Bureau of Labor Statistics, *Employment Outlook in the Men's Clothing Industry,* Occupational Outlook Handbook, Supplement No. 10 (Washington, D. C., 1950), p. 7.

. . . the rule of law is meaningful only as it insures justice for individual persons.—Attorney Genera William P. Rogers.

workers immobile. The program provides for vesting only when a member transfers to another plant which has a contract with the Amalgamated.[38] In addition, in order to get retirement benefits a worker must have reached the age of 65 (unless totally and permanently disabled), worked 20 years in the industry, and worked for a contributing employer since December, 1945. The last point would make a move out of the industry extremely costly. It should be noted that the pension plan began operation in December, 1945, and started paying retirement benefits in January, 1947.[39] Under these conditions, older workers would be extremely reluctant to move on to other industries.

The age composition of the labor force and the nature of the pension program take on greater significance in the light of the declining employment and output trends in the men's clothing industry. The immobility of a substantial segment of the industry's labor force together with the sharp decline in the demand for the services of its workers probably explains a part of the decline in relative wages. Even in the face of declining relative wages, the older workers would be reluctant to move on to other industries. Rather than be forced to move, they might accept a lower relative wage in order to stay in the industry. There is evidence to support this position in a number of news reports which indicate that the union, because of the industry's depressed condition, passed up attempts to win wage increases.[40]

Part of the decline in relative wages may also be explained by the probable influence of unionism in manufacturing. The studies previously cited (see footnote 24) indicate that during World War II the new unions had lost all of the ground they had previously gained, so that at the end of the war the manufacturing series was probably in significantly affected by unionism. However it seems likely that since 1946 the new unions have once again raised wages to some extent, but how much is not yet known. If wages in manufacturing in 1956 were adjusted in order to eliminate an assumed union effect of 5 per cent, relative wages in men's clothing would be .95.

The age and pension factors together with the declining demand for the industry's products also probably exerted some downward pressure on the relative wages of clothing workers. If adjustments were made for these factors also, it seems likely that the relative wages of clothing workers would be near 100, indicating that the union had raised the relative wages of clothing workers about 5 per cent above the level of the pre-Amalgamated years of 1911-1913 (Table 4). However, in the light of the assumptions made with respect to the wage data, the figures are compatible with a conclusion that the union exerted no effect at all.

Conclusion

The analysis indicates that the Amalgamated had its greatest influence upon the wages of men's clothing workers during the early years of its growth (between 1914 and 1919) and during the decade of the 1920's. The amount by which it raised wages in men's clothing relative to wages in manufacturing early in the 1920's was probably somewhat in excess of 15 per cent, the impact declining to a little less than 10 per cent by 1928-1929. The maintenance of differentials, however, led to decided shifts in output and employment from union to nonunion markets.

The Amalgamated's influence lessened considerably during the 1930-1932 depression but it was still able to exert some upward pressure, however weak, on the wages of clothing workers in union markets. During the following two years, the union received powerful assistance from the minimum wage provisions of the clothing code established under the National Industrial Recovery Act. Intermarket wage differentials were narrowed considerably and the wages in clothing relative to wages in manufacturing rose substantially. After the clothing code was abolished when the NIRA was declared unconstitutional, the Amalgamated's influence on wages in the industry became negligible. [The End]

[38] *The Amalgamated Welfare Plan,* Biennial Report, 1954-1955.

[39] Senate Committee on Labor and Public Welfare, *Welfare and Pension Plans Investigation,* S. Rept. 1734, 84th Cong., 2d Sess., Final Report of the Committee on Labor and Public Welfare submitted by its Subcommittee on Welfare and Pension Funds (Washington, Government Printing Office, 1956), p. 119.

[40] *Daily News Record,* October 5, 1948, p. 10, and November 15, 1948, p. 26; *New York Times,* October 11, 1950, p. 27, October 9, 1951, p. 23, April 7, 1952, p. 25, March 27, 1953, p. 17, and May 3, 1956, p. 1.

The NLRB and Arbitration: Conflicting or Compatible Currents

By BERNARD SAMOFF

Although the author is employed as Chief, Labor Management Relations Examiner in the Philadelphia office of the NLRB, the views expressed in this paper must not be taken as an official pronouncement of either the NLRB or its General Counsel.

THROUGHOUT a 23-year administration of the Wagner and Taft-Hartley Acts, the NLRB has been confronted with the delicate task of accommodating the right to organize and bargain collectively with the right of employees not to be discriminated against. "Encouraging the practice and procedure of collective bargaining" as one of its objectives is reflected in cases where available arbitration or an arbitration award is introduced. In such unfair labor practice charges the NLRB needs to reconcile competing interests and conflicting values. Should the Board dismiss the charge in view of arbitration, appraise its merits ignoring arbitration or select those cases which it will handle and reject all others?

This paper takes a look at the NLRB as an agency and at arbitration as a process, identifies the major trends which have emerged and considers the interacting power relationships between unions, employers and employees with the NLRB and arbitration as the central reactors. It is my conclusion that while the NLRB's decisions involving arbitration are not models of clarity, there is an increasing tendency to honor arbitration, and that the Board may have a prospective course which will further strengthen voluntary arbitration.

As we look at the evolution and trends, we must bear in mind that each constituent —whether an employee, union or employer —will come or not come to the NLRB depending upon its own self-interest. Each one has a choice. Each may come for different reasons. Each self-interest unit is not consistent. The very union or employer which, under one circumstance, will rush to the NLRB instead of utilizing arbitration will, at a different time, stoutly defend on arbitration grounds when a charge is filed against it. What each conceives or views as essential for its protection or aggrandizement determines recourse to the NLRB.

NLRB and Arbitration— Nature, Contrast and Comparison

What are the concepts, values, functions and guides available to the NLRB when arbitration is involved? Under Taft-Hartley, the Board is called upon to accommodate five objectives of our national labor policy. These are: (1) protecting the right to organize and bargain collectively, including the determination of majority representatives; (2) protecting the right to refrain from collective bargaining; (3) holding unions and employers to their full legal responsibilities; (4) protecting employees, employers and the public from coercive unionism; and (5) encouraging the practice and procedure of voluntary bargaining.

Even a cursory examination of these goals reveals how difficult their accomplishment becomes when a specific case is presented. It has been noted that these objectives are highly inconsistent—a pattern not infrequently observed in legislation. Each arbitration case confronts the Board with hard choices among these goals of public policy. We can assist and facilitate collective bargaining only at the price of limiting union recourse to the NLRB when arbitration is available, or restricting an employee charge of discrimination if it has been arbitrated. This is but one illustration of an inconsistent public expectation, and must not be ignored in our consideration of the NLRB's functioning.

The Board is a legal institution with operational responsibilities. Decisions are

reached after they have been sifted upward through regional personnel under the General Counsel's supervision and direction. Workers, employers and unions bring cases; the agency does not seek them out. It is not a policing or regulating organization required to supervise the conduct of industrial relations. It treats only cases and controversies. Its decisions are predicated upon a specific set of facts, although such decisions serve as guides and have precedent values. NLRB adjudications seek to establish standards rather than substantive rules. It has no penalty sanctions, only remedial ones.

Each case must be disposed of in relation to the time it arose and under its own peculiar circumstances. New conditions upset the equilibriums of yesterday. The statute provides a general framework. However, the words are not crystal, transparent or pellucid. The Board's task is more than merely invoking the appropriate section of the statute for its decision. Each case calls into play a variety of pressures. Since the provisions of the law ofttimes conceal rather than reveal answers, the ultimate choice depends upon the way in which the Board members interpret and apply the statute. Because arbitration is nowhere mentioned in the act administered by the NLRB, it is not only the time and circumstances of each case but also the men who must decide them which affect the interacting relationships among the constituents.

Cases involving arbitration are brought to the NLRB. They require a neat balancing of partisan interests, conflicting values and public obligations. The NLRB has a quasi-judicial function and possesses expertise[1] in industrial relations. On the one hand, as a national agency it must strive for uniformity and predictability; on the other hand, flexibility and adaptability are essential in handling the myriad situations under different arbitration arrangements. Time, circumstances, changing NLRB members, the desire for uniformity without sacrificing flexibility--all these impinge upon the constituents and the NLRB when arbitration is at issue.

Most important from the perspective of power relationships is that recourse to the NLRB is a voluntary and unilateral decision. When NLRB Chairman Boyd Leedom expressed the view that "employer and union should adjust their differences without seeking our help,"[2] or when former Board Chairman Guy Farmer observed that it would be "infinitely more desirable" for the union and employer to settle their own contractual differences instead of placing them "in a context of administrative regulation,"[3] they were each saying that the power of the federal government should be invoked infrequently so that private arrangements and pressures would achieve solutions. Again I emphasize that nothing compels the signing of a charge; it is a willing and one-sided act.

Unlike a statutory legal institution, arbitration is a bilateral, mutually acceptable procedure, initiated and supported by the reciprocal self-interest of employers and unions. It is uniquely tailored to suit the needs of the parties. It is a continuation and extension of collective bargaining and involves agreement-making as well as agreement-administration. While the NLRB has a quasi-judicial function, arbitration is more akin to a legislative one.

Arbitration and no-strike clauses are neither explicit grounds nor definitive answers for grievances arising under them. Why are such provisions written into labor contracts? Under pressure of an imminent strike, obscure provisions are agreed upon as the best obtainable. These represent an imperfect meeting-of-minds which subsequent arbitration is intended to clarify, but the contract is preferable to a test of economic strength. General language is incorporated into the agreement with the anticipation that many loose ends will be ironed out later. Indeed, even the arbitration clause itself may be a vague and imperfect instrument for dealing with later grievances. The bargainers cannot possibly anticipate the kinds of problems which may arise under each clause during the life of the agreement. "To be adequate," observed Professor George W. Taylor, "basic theories of collective bargaining and arbitration have to take these unspelled-out provisions into account."[4]

In the past, many strikes occurred during the life of a contract over differences involving incomplete clauses. Experience indicated that the agreement was not self-effectuating.

[1] This was underscored recently when the Supreme Court said in its decision sustaining the NLRB's disposition of the hot cargo issue "A more important consideration, and one peculiarly within the cognizance of the Board because of its closeness to and familiarity with the practicalities of the collective bargaining process . . . ." (*Carpenters and Joiners of America, Local 1976 v. NLRB*, 35 LABOR CASES ¶ 71,599 (June 16, 1958).)

[2] Address delivered to the National Labor Relations Conference of the Chamber of Commerce of the United States, March 4, 1957.

[3] *Westinghouse Electric Corporation*, 113 NLRB 954, 959 (1955).

[4] George W. Taylor, "The Unspelled-out Provisions of the Labor Agreement," 30 *Temple Law Quarterly* 20 (1956).

Since there was no restriction on strikes during the life of an agreement, economic power could be and was applied to fill out the unspelled-out clauses, to change stated terms and even to change the subject matter incorporated in the agreement. (As will be noted later, unions could and did substitute NLRB power to supply meaning for, and add substantive content to, bargaining provisions.) Such free and ready access to the strike was not conducive to stable industrial relations. Strikes are limited—or special—purpose tools. To utilize this powerful sanction every time a grievance arose was costly to employers and to employees, and would soon destroy the union. Moreover, strikes were incompatible with ideas about economic security, employment stabilization and economic progress. A term agreement was achieved when the strike was restricted and arbitration was accepted as a substitute.

When there is no mutual understanding with respect to the skeletal, incomplete, ambiguous, obscure and contradictory clauses, should the gaps be filled in by voluntary arbitration, by the NLRB or by the courts? While most agree that it is preferable for the parties themselves to fill in the interstices, what if the union or employer will not utilize their voluntary procedure, or a worker believes that his interest will not be protected fully in arbitration, particularly when the union and/or the employer are obviously hostile to him?

To unearth and to understand the answers which the NLRB has given requires consideration of the Board's discretion. In the interest of clarity, and because cases fall into recognizable but not always clearly delineated patterns, I propose to discuss them under three general headings: *Discriminatory Discharges, Scope of Bargaining and Furnishing Information,* and *Interpretation and Application of Agreement Terms.*

NLRB Trends

(1) **Discriminatory discharges.**—It is a safe generalization that where arbitration is available, unions rarely invoke NLRB action when one of their members is fired. Within recent years unions have apparently concluded that arbitration is preferable to NLRB charges. The NLRB has supported this view by indicating, as early as 1943, that "We . . . do not deem it wise to exercise our jurisdiction . . . where the parties have not exhausted their rights and remedies under the contract. . . ."[5]

Two examples of union behavior illustrate the problem of discharges in the face of available arbitration. In the Southern Bell Telephone strike, the union and employer agreed to arbitrate the issue of some 265 strikers for alleged picket-line misconduct and violence. Although this is the type of case which frequently comes to the NLRB, the union chose arbitration despite its substantial cost. Union power, as exercised through the selection of arbitrators, nonlegal proceedings and mutually acceptable criteria, was more likely to accomplish the union's objectives than NLRB disposition. When I appraise the results against the probable Board decision, I am persuaded that the noninvolvement of the NLRB was salutory.

The contrasting example is where a union filed a charge, notwithstanding available arbitration, because an active unionist was fired for taking the Fifth Amendment before a Congressional committee. Apparently this union believed, again in its self-interest, that its chances for success were greater before the NLRB than in arbitration. This case never reached the Board because it was dismissed for lack of merit by the General Counsel. Here neither the Board nor arbitration could aid the union.

These illustrations highlight the choice that the union must make. It can avoid the NLRB merely by not filing a charge. It must evaluate its power in private arbitration. If it files, the union risks the consequences of government intervention. At this point, the NLRB must determine whether it will exercise its authority to act or to refrain from acting, either of which affects the union directly and the employer indirectly. This continuing interaction is characteristic of each contractual dispute which either comes to, or avoids, the NLRB. Over-all, unions do not seek Board intervention when workers are fired in the face of arbitration, and the NLRB is unlikely to provide its remedy under this situation.

It is also rare for a union to file a charge involving employee dismissals where an arbitrator has issued an award unfavorable to the union. Such final determination is usually accepted by the union as one of the risks of arbitration. However, should the union choose to file on the ground that the arbitrator ignored or accorded insufficient weight to discrimination evidence, or that his award was inconsistent with the statute, the NLRB would undoubtedly dismiss the charge be-

[5] *Consolidated Aircraft Corporation,* 47 NLRB 694 (1943), enf'd as modified in other respects, 8 LABOR CASES ¶ 62,088, 141 F. (2d) 785 (CA-9, 1944).

cause "it would not comport with the policy of the Act to encourage collective bargaining as a means of settling disputes, to review *de novo* issues decided by arbitration."[6]

Our review of union-filed discriminatory discharge cases suggests two conclusions: (1) such cases are rarely brought to the Board; and (2) if they are filed, the Board, providing its established minimum safeguards and standards are present, will not intervene.

However, individually-filed charges raise perhaps the most vexing questions for the NLRB, since they involve the rights and obligations of unions and employers under arbitration, and the NLRB's public responsibilities. Moreover, these cases bring to the fore due process, equal protection and a fair trial. Such cases also pose the question of the degree of the individual's subordination to the general welfare of the union. These fundamental values are particularly significant in terms of national debates over individual rights, union security, democratic unions and corrupt union practices.

Over the years the NLRB has been inclined to ignore available arbitration where the individual and the union are hostile. Such cases have been decided on their merits, and the arbitration-defense has been rejected. Many of these involve union-caused discharges under a union-security clause. To require that an employee exhaust arbitration, assuming the union would permit this, would sanction union (frequently combined with employer) power. Inasmuch as the NLRB is charged with protecting the employment rights of workers who complain, it could not permit private arbitration to oust it. In this circumstance it is the force of agency intervention which impinges upon union power.

However, the NLRB distinguishes between individual charges where arbitration was *not* used and those where it was. A 1955 NLRB landmark decision endorsed the arbitrator's award as dispositive of the charges.

In *Spielberg*[7] the strike settlement provided for arbitration to determine whether four strikers would be rehired in view of employer-charged picket line misconduct. They had served on the union's strike and organizing committee. Before the hearing the strikers selected a personal attorney with the union's permission. At the outset he questioned the professional competence of the arbitrator (an accountant with no prior arbitration or industrial relations experience), and asserted that while his clients would participate in arbitration, they were not thereby waiving any legal (NLRB) rights. Over the dissent of the union arbitrator, the board of arbitration sustained the employer's refusal to rehire the strikers. They filed charges with the NLRB.

In dismissing the charges, the NLRB cited three grounds: (1) the proceedings were fair and regular, (2) the decision of the arbitration panel was not clearly repugnant to the purposes and policies of the act, and (3) all parties had agreed to be bound by the award. Thus the NLRB stood foursquare behind the award when it observed: ". . . we believe that the desirable objective of encouraging the voluntary settlement of labor disputes will best be served by our recognition of the arbitrator's award."

To summarize the NLRB's treatment of arbitration where individual charges are filed, we conclude that available arbitration will be ignored and rejected, principally because the union and employer are opposed to the individual. The NLRB will intervene to protect workers from the combined power of unions and employers. However, if such discharges have been arbitrated, the NLRB will not intervene provided the three elements noted above are present. In such an instance it doesn't matter whether charges are filed by unions or by individuals. The effect of an arbitrator's award is the withholding of NLRB power.

(2) Scope of bargaining and furnishing information.—The influence of the NLRB has been most marked in this area. Irrespective of available arbitration, the Board has consistently held that it is the proper forum for determining what subjects are bargainable. During a contract, when the union cannot persuade the employer to negotiate a new subject (like pensions or welfare benefits) or the employer acts unilaterally with respect to a subject (such as offering stock to employees), the union can obtain help from the NLRB. Because the union either believes that arbitration cannot resolve this kind of issue or because it anticipates that the NLRB will order an employer to bargain, it will come to the Board. Since such subjects are viewed by the NLRB and the courts as wages and conditions of employment, the employer is required to bargain with the union about such items. Thus unions obtained governmental power to compel employers to negotiate additional items,

[6] *Anchor Rome Mills,* 86 NLRB 1120 (1949).

[7] *Spielberg Manufacturing Company,* 112 NLRB 1080 (1955).

even though unions alone lacked sufficient pressure to achieve this broadened bargaining scope. Matters previously handled by management unilaterally were compulsorily shifted to joint decision-making. It has been asserted that governmental support in this area threatened management security and gave rise to employer demands for fixing management rights.

Notwithstanding these views, the NLRB will determine the scope of bargaining when this issue is brought to the agency. Both opponents and proponents of arbitration have challenged such a Board determination. However, so long as the NLRB is responsible for delineating matters embraced within bargaining, it will not accord any weight to arbitration for it believes that "the Board is the proper forum for adjudicating such legal issues." [8] In other words, the right to bargain during a contract over pensions, group insurance, welfare benefits and, more recently, company stocks is not to be resolved by the interacting economic forces of unions and employers, but will be determined by law. In this area, arbitration cannot affect or influence the NLRB. Just as the Wagner and Taft-Hartley Acts removed the question of exclusive recognition from the economic-pressure realm, so the NLRB has withdrawn the scope of bargaining from the economic tussle.

I don't wish to leave the impression, however, that any time the union files charges during a contract, alleging that the employer will not bargain over a subject, the NLRB orders the employer to bargain. Far from it. When there is a specific clause stating that the union will not introduce any new subjects, the employer can avoid NLRB compulsion to bargain over an excluded subject. Moreover, the union and employer may agree that if a scope question arises, it will or will not be subject to arbitration, and the Board will honor such an agreement.

Akin to the issue of bargaining subjects is the employer obligation to furnish information essential for administering or policing the contract. Quite consistently, except where the union has explicitly waived its right, the NLRB has required employers to supply necessary data even though employers have claimed arbitration as a defense. In its latest decision, affirmed by the Court, the Board observed that "statutory obligations to furnish data to the bargaining representative is not satisfied by the substitution of the grievance procedure . . . ." [9]

The Board will grant relief to the union, available arbitration notwithstanding. In other words, those functions of unions related to their "representativeness" cannot be replaced by arbitration. While NLRB intervention can, by substantially altering the terms of an agreement, add to union power, the employer cannot escape this risk unless the contract specifically so provides. It is important to emphasize that the *procedures* of collective bargaining have a direct and intimate impact upon the *substance* of collective bargaining. When the NLRB compels an employer to bargain over a subject or furnish information, even though the NLRB does not fix the terms, such an order subtracts from employer power in the give-and-take of bargaining.

However, where the employer and union have arbitrated a matter embraced within the scope of bargaining, the NLRB will not intervene. Thus the employer's unilateral distribution of an employees' manual, which presented an issue that was arbitrated and lost by the union, elicited this NLRB view upon the dismissal of the union's charge: "It would not comport with the sound exercise of our administrative discretion to permit the union to seek redress under the Act after having initiated arbitration proceedings which . . . resulted in a determination upon the merits." [10] The NLRB would not allow the union "two bites at the apple" by the substitution of governmental authority for union failure in arbitration. The Board's power cannot be invoked to shore up or add to the union's pressure. Private power can avoid NLRB power.

(3) Interpretation and application of agreement terms.—Cases arise in this area where employers, unable to reach agreements with unions, install changes in working conditions but refuse to arbitrate grievances protesting such action, or where unions, which cannot persuade employers to accept their interpretations, strike to obtain the given working conditions. Both types of conduct occur under arbitration and no-strike clauses. These discrete situations elicit different Board responses.

Where the Board concludes that the issue is one over conflicting contract interpreta-

[8] *General Motors Corporation,* 81 NLRB 779 (1949), enf'd 17 LABOR CASES ¶ 65,533, 179 F. (2d) 221 (CA-2, 1950).

[9] *J. I. Case Company,* 118 NLRB 520 (1957), enf'd 34 LABOR CASES ¶ 71,360 (CA-7, 1958).

[10] *Timken Roller Bearing Company,* 70 NLRB 500 (1946), enforcement den., 12 LABOR CASES ¶ 63,793, 161 F. (2d) 949 (CA-6, 1947).

tions and the employer is not acting in bad faith or motivated by discriminatory considerations, the Board will not intervene even if the employer refuses to arbitrate. The Board is not the proper forum for remedying alleged breaches of contract or obtaining specific enforcement of its terms. However, sometimes an alleged contract violation is enmeshed with an unfair labor practice. This problem is illustrated in a decision[11] where the union interposed unused arbitration as a defense to an employer charge of restraint and coercion.

The union refused to discuss grievances with an employer association so long as the latter was represented by an outside consultant. It claimed that since this was a dispute over the interpretation of the contract which provided that only "employers" could represent the association, it should be arbitrated. Nevertheless, the NLRB brushed this aside. It held the provision was not ambiguous; therefore, the matter was not arbitrable. The Board found it unnecessary to decide whether unused arbitration would be a valid defense if the contract provision were ambiguous.

This latest Board view suggests that an employer may successfully invoke Board aid, despite arbitration, when a union seeks to alter an unambiguous contract term. Instead of resolving this question through arbitration, the employer came to the Board. In one sense this decision is analogous to those in which the "representativeness" of the union was at issue, for the employer's selection of its spokesman was in dispute. In another sense the Board indicated that it will not act only when contract provisions are susceptible to differing interpretations. However, so long as the Board construes a contract provision as no defense to unlawful conduct, unused arbitration is irrelevant. Government authority substitutes for and replaces private arbitration

What may a union do when the employer implements its construction of a disputed contract term? May it strike? "No," answers the Board. If it does in the face of arbitration and no-strike clauses, with two exceptions, the employer may lawfully cancel the contract, refuse to bargain and dismiss some or all of the strikers. Such self-help is unavailable to the union. It cannot obtain any NLRB sanction against the employer, or use economic force to resolve a contractual difference, even though the employer will not arbitrate.

The Board believes that its decisions involving no-strike clauses reinforce arbitration. Unions should not resort to strikes under a contract. What, say the unions, can we do when the employer acts despite our protests and will not arbitrate? We can't get relief from the NLRB. We are in real trouble if we strike. We have no recourse except the courts. Although most unions assert they prefer avoiding judicial intervention, they are, in increasing numbers, invoking the judiciary to compel arbitration. Before considering an NLRB alternative to judicial action, we should be aware of the nature of contractual relations.

When circumstances change since the signing of a labor agreement, the obligations of each party may become so onerous as to thwart the development that each one believes essential for its continued existence. Should this occur, a union or employer will disregard these obligations whether or not it has a legal justification. If the law insists too rigidly upon the binding force of contracts, which may have been imposed by sheer power, it will only defeat its purpose by encouraging covert violations. Therefore, it is necessary to have an acceptable process to accomplish these accommodations to altered circumstances. Every system of law has to steer a course between the twin dangers of impairing the obligations of good faith by interfering with contractual arrangements and of enforcing oppressive or obsolete terms. A labor agreement, like an international treaty, is a balancing of interests, reflecting an effort to weigh one interest against another and laying down an arrangement as nearly just as the circumstances allow.

In two decisions the Board indicated that the act, instead of the courts, may provide a remedy for adherence to contract terms, and this relief takes into account the dynamic nature of contractual relations. Both cases involved strikes during a contract by the United Mine Workers. In *Boone County Coal Corporation*,[12] the union struck to force

[11] *United Association of Journeymen Steamfitters, etc.*, 5 CCH Labor Law Reports (4th Ed.), ¶ 55,276, 120 NLRB, No. 36 (1958).

[12] 117 NLRB 1095 (1957). Contrary to the Board's *factual* finding, the United States Court of Appeals for the District of Columbia Circuit recently concluded that in the light of past bargaining and in the absence of an explicit no-strike clause, the NLRB could not engraft a no-strike commitment upon the arbitration clause. Since this reversal of the Board is predicated upon a technicality, it leaves undisturbed the pivotal point that unions may not strike lawfully over a grievance within the jurisdiction of arbitration. *UMW v. NLRB*, 35 LABOR CASES ¶ 71,590 (CA-DC, June 12, 1958).

the employer to accept its interpretation of an agreement term, and in *Westmoreland Coal Company,*[13] the union struck rather than accept an adverse arbitration award. Although the employers could have lawfully canceled the agreements and fired all strikers, they chose instead to charge the unions with refusal to bargain. In these situations the employers believed it unfeasible to avail themselves of the drastic penalties, and preferred the milder remedy of the NLRB. The union was ordered to stop striking. These strikes could not lawfully achieve their purposes since the disputes were cognizable under arbitration. The Board held that the award, in the latter case, was part of the contract and that the union could not strike to change it.

Both decisions emphasize that the unions' strike power cannot be substituted for arbitration. Governmental authority is placed on the side of voluntary procedures. Once unions and employers have agreed to a procedure for the disposition of contractual differences, good faith and the prevention of economic conflict require that they adhere to the standards of bargaining which they themselves have created. The act leaves the establishment of machinery for the disposing of differences to private negotiations. Where the union departs from the procedural standards, the Board's power may be invoked by the employer.

Refusal to Arbitrate

From its start, the NLRB concluded that an employer's refusal to arbitrate was not a refusal to bargain within the meaning of the statute. This view was reinforced by the legislative history of the Taft-Hartley Act which says that "the enforcement of . . . [a] contract should be left to the usual processes of the law and not to the National Labor Relations Board." [14] At the beginning of this paper I indicated that the Board may have a prospective course which will further strengthen voluntary arbitration.

What alternatives are open to the union when the employer will not arbitrate? It can do nothing but bide its time until contract renewal time. However, this, as experiences teaches us, builds up considerable pressure which complicates contract negotiations. The union may engage in covert slowdowns and other forms of in-plant conduct designed to harass the employer. This too is undesirable. It may go to the courts to compel arbitration.

Judicial intervention may be available in a state or federal court. However, in my judgment, even limited state or federal court intrusion harms the arbitration process.[15] Where one party to the contract refuses to arbitrate, the other one may go to court. The defending party argues that its refusal to arbitrate is based upon its interpretation of the arbitration provision which does not embrace the matter in dispute. At the outset, the court has to determine whether the contractual difference is arbitrable. Here is the nub of the difficulty. If the court decides that it is not, the agreement to arbitrate is not enforced. This places courts in the position of deciding arbitrability.[16] Our experience with this issue strongly suggests that such matters should not be given to the courts.

Whatever steps we take should be measured against two basic values: (1) Voluntary arbitration involves making agreements as well as administering them, and is a substitute for the strike; and (2) judicial or administrative intervention, at most, should be facilitative—not determinative or dispositive. Three alternatives have been proposed for meeting this vexing and critical problem. These are (1) a uniform arbitration act for all states, (2) Section 301(a) of the Taft-Hartley Act and (3) amendments to the United States Arbitration Act.

(Since this paper was prepared in April, 1958, CCH weekly Labor Law Reports document the expanding litigation under Section 301 of the Taft-Hartley Act. Two recent circuit court decisions are singularly important. In *Lodge 12, IAM v. Cameron Iron Works, Inc.,* 35 LABOR CASES ¶ 71,671

[13] 117 NLRB 1072 (1957). Unlike the Board, the United States Court of Appeals for the District of Columbia Circuit recently found that the arbitrator's award did not become part of the contract. It held that the issue of shift seniority which he resolved was to be settled by the union and employer under the terms of the contract. Since, in the court's view, the strike was not in protest over the adverse award but was to "fill out" a gap in the contract, the strike did not demonstrate an unlawful refusal to bargain. Dissenting Judge Walter E. Burger pointedly observed that the very function of arbitration was to complete incomplete clauses. Moreover, the majority ignored the fact that the union had agreed to arbitrate and struck only after it lost. Should this decision become the law, it would compel the NLRB in each analogous case to determine whether the contractual difference was covered by, or outside of, the labor agreement. *Local 9735, UMW v. NLRB,* 35 LABOR CASES ¶ 71,616 (CA-DC, 1958).

[14] H. Conf. Rept. 510 on H. R. 3020, pp. 545-546.

[15] Bernard Samoff, "Federal-State Relations: Enforcing Collective Bargaining Agreements," 9 *Labor Law Journal* 393 (June, 1958).

[16] A recent exposition of this issue will be found in *Local 201, IUE v. General Electric Company,* 35 LABOR CASES ¶ 71,636 (DC Mass., May 19, 1958).

(CA-5, June 30, 1958), the court was called upon to resolve two issues: *first,* was the question of the reinstatement of an alleged "misconducted striker" lawfully arbitrable; *second,* was this contractual controversy unarbitrable inasmuch as the reinstatement of strikers for unprotected or improper picketline behavior lies within the exclusive jurisdiction of the NLRB. Lightly brushing aside all legal defenses, the court answered "yes" to the first question. However, the second issue not only presented an unwelcome complexity but also posed a neat problem. To resolve it required the court to delineate between so-called contract violations and unfair labor practices. Conceding that under Section 10(a) of the Taft-Hartley Act the NLRB possessed exclusive power to remedy unfair labor practices unaffected by any private agreement, Judge Rives thought it "too technical and obtrusive to attempt a division . . . into a contract part and an unfair labor part." Submission of the dispute to arbitration, noted the court, did not affect the power of the Board to act if a charge were filed. On the other hand while the General Counsel is not bound by an arbitration award, he could, in the exercise of his unreviewable authority and discretion, decline to issue a complaint. Thus this decision, if undisturbed by the Supreme Court, marks another step along the road of judicial enforcement of agreements to arbitrate. Most important, it evolved an accommodation, through "judicial inventiveness," between Section 301 and Title I of the Taft-Hartley Act.

United Textile Workers of America v. Textile Workers Union of America, 35 LABOR CASES ¶71,742 (CA-7, August 11, 1958), heralds a significant "mutation" of Section 301. This case involved TWUA's refusal to comply with an arbitration award issued by David L. Cole, impartial umpire under the AFL-CIO no-raiding agreement, after the NLRB had directed an election on TWUA's representation petition. Displaying a marked skill for creative adaptation and ignoring the NLRB's consistent refusal to honor arbitration awards under the no-raiding agreement, the court sustained UTWA's Section 301 suit and, in effect, ordered TWUA to withdraw its NLRB petition. Apart from the potentially explosive issue of whether the NLRB must, under this decision, permit TWUA's withdrawal of its petition should it be forthcoming, this court provided a judicial sanction upholding private agreements between unions. Moreover, it not only supplied new breadth to Section 301 and new dimensions to the AFL-CIO no-raiding agreement, but also reflected the enlarged scope of judicial action in labor matters.)

In my view, the principal defect in these proposals is that they invite the courts to determine the arbitrability of each contract difference. Such judicial channels will enervate voluntary arbitration by affording a legal forum whenever a party wishes to avoid arbitration, which it has accepted voluntarily. Indeed, if the availability of this forum inclines more parties to resist arbitration, then workers are unhappy awaiting the slow, cumbersome and unsatisfactory judicial procedures for the settlement of contractual differences. Will unions accept arbitration and no-strike clauses if they know that the employer can nullify arbitration by ready access to the courts?

To cope with the problem raised by refusal to arbitrate, I offer the suggestion that the NLRB could hold such conduct to be an unlawful refusal to bargain. This proposal flows from the NLRB's coal cases, noted above, where the Board required the union to arbitrate and accept an award. I infer from these decisions that the NLRB considers arbitration to be an extension of collective bargaining, so that refusal to arbitrate is an unlawful refusal to bargain.

This administrative remedy would remove the courts from intervening in the enforcement of labor agreements. Simplicity and predictability characterize this remedy. An experienced agency is always available. Neither questions of arbitrability nor merits, which create serious problems for the courts, will need NLRB treatment. So long as the contract provides for arbitration, whether limited or unlimited, the Board can require the parties to use it. This applies even where the union strikes in the face of a no-strike pledge. An arbitrator, not a court, is in the best position to administer, interpret and implement no-strike breaches, including monetary or disciplinary penalties. Once employers and unions are aware that the NLRB will require arbitration, irrespective of the nature of the grievance, only a few cases should reach the Board. In this way the NLRB would lend its authority, not to unions or employers, but to the process and procedures of arbitration.

Congress has charged the Board with public responsibility for assisting and facilitating collective bargaining, and insuring that contractual obligations are bilaterally enforceable. To require parties to live up to voluntary agreements to arbitrate is not derogative of the parties' private machinery; on the contrary, it encourages resort to such

procedure. The bargaining obligation rests equally on both parties; neither the sanctions of the Board nor the courts may be invoked successfully to aid one party or the other. Contractual differences are returned to the parties by the NLRB.

This critical issue could be disposed of most adequately by a Board order requiring arbitration which would eliminate intrusion of any governmental force and keep the parties in the same relative position that they had prior to NLRB involvement. The government maintains its neutrality. Such a remedy would achieve uniformity of a procedural, not substantive, nature. Unions and employers would work out their differences within the voluntary arbitration process they have created and agreed to utilize. The unwilling party would then be ordered to abide by its undertaking. This type of NLRB order seems consistent with the NLRB's coal decisions, and would serve the useful function of withdrawing the Board where arbitration is available.

Conclusions

Collective bargaining is the foundation of our national labor policy and arbitration is one of its principal pillars. The NLRB is an important public organization for dealing with certain collective bargaining questions. Unions and employers have it within their control to remove the NLRB force when they work out their contractual differences. However, when their voluntary machinery breaks down, or an employee believes himself wronged by either or both, and someone files a charge, the NLRB must act.

We must understand the contrasting functions of the NLRB and arbitration. The former is an organized expression of public needs whereas the latter is a privately established process designed and adapted for limited accomplishments. Arbitration performs a variety of mutually acceptable functions, while the NLRB operates within the framework of a statute, independent of the wishes of the parties. Arbitration and the NLRB are affected differently by time, circumstances and men. We need a consistent *modus operandi* because our legal procedures must be integrated with our surrounding collective bargaining practices.

NLRB decisions involving arbitration have not been clear or consistent. This is understandably inevitable in the light of the dynamics of industrial relations and a fast-moving society. Nevertheless, today we appear to be on the threshold of a fixed policy for disposing of cases where arbitration is the pivotal issue, and we can discern an NLRB trend of according more weight to arbitration.

Which road collective bargaining follows in our country may well depend upon how we resolve the issue of handling refusals to arbitrate. This question is central to the enforcement of labor agreements. Various alternatives have been proposed to meet this challenging issue. In my judgment they all suffer from a major defect—each requires the courts to intervene. This would confront the courts with determining arbitrability. Experience with judicial intervention and its effects upon arbitration convincingly demonstrates where this legal road leads. If, as I believe, our democratic system demands that people be given the widest latitude in settling their own problems and that the role of government is to provide positive encouragement, then an alternative measured against these values is suggested.

Whenever the union or employer refuses to arbitrate, irrespective of the language of the arbitration clause or defenses alleged, the NLRB should require the resisting party to abide by his voluntary undertaking. The same Board order should be issued even if the union is striking in violation of the no-strike clause, except where such a strike is provoked by unfair labor practices or caused by "abnormally dangerous conditions." [17] This type of Board order meets objections to unconstructive government intrusion and fulfills the objective of constructive encouragement of arbitration. Indeed, this proposal would immeasurably assist the integration of the evolving law of labor relations with developing bargaining relationships. It leaves unions and employers unencumbered by substantive government regulations and places governmental power squarely behind voluntary procedures and practices. To require the parties to arbitrate accomplishes these aims: (1) Arbitration is given a powerful boost, (2) unions and employers are told to work out their own difficulties and (3) the government aids the process but not either party.

With the "coming of age" of collective bargaining, the federal government must weigh carefully those policies which will accommodate the bargaining process with public needs and expectations. Many of our

[17] Sec. 502 of the LMRA.

national labor problems stem from improvisation and lack of underlying concepts. They also reflect public articulation of inconsistent objectives and discrete demands. There are so many forces pushing against the bargaining process that no acceptable clear-cut policy has crystallized. Each constituent acts in his self-interest, and in our democracy the reconciliation of such multiple interaction demands continuing attention. The NLRB and the arbitration process each generate power—the exact effects of which are unmeasurable—and these forces create reciprocal exchanges. Employees are also participants in this maelstrom. They display unimaginable ingenuity in framing their mistreatment or abuse to fit some NLRB provision. Consequently, the NLRB must tread warily among unions, employers and employees when arbitration is at issue.

It is hoped that the evolving patterns of industrial relations will bring about more opportunities for the parties to compose their differences without resort to the NLRB. Board member Joseph A. Jenkins expressed this view when he observed: "Nothing would please me more than to see the day when most, if not all, problems in labor relations are solved by the parties themselves, either by private agreement or resort to private third party methods." [18] A continuing trend of less government intervention should encourage both sides to work harder at solving their own problems. We should never underrate the resourcefulness of people in finding solutions to difficulties, and such freely worked out and acceptable answers possess a vitality and strength unmatched by the best governmental remedies.

Our present economic ebb and flow will undoubtedly place a severe strain on collective bargaining. This process must meet its responsibilities to everyone's satisfaction, including the public's, or there will be strong impetus to impose additional restrictions and regulations.[19] Should the process prove unequal to the challenge, more governmental controls will be the likely alternative. While only employees, unions and employers can bring about fewer occasions for NLRB intervention and, thus, minimize the impact of governmental power, the Board can also render decisions which will encourage and facilitate private and voluntary decision-making. **[The End]**

[18] "The Peacemakers," remarks by Mr. Jenkins before the Arbitration and Industrial Relations Conference, Fort Worth, Texas, November 19, 1957.

[19] The Senate-passed Kennedy-Ives bill illustrates this point.

Noneconomic Factors in Collective Bargaining

By **WILLIAM H. KNOWLES**, University of California, Berkeley

INSTITUTIONAL economists have long been aware of the noneconomic aspects of collective bargaining. For examples see the works of Arthur Ross and John R. Commons.[1] The purpose of this paper, however, is to examine findings in the area of human relations research which may be applicable to collective bargaining. The noneconomic factors in collective decision-making to be considered are communication problems related to personality problems, patterns found in the interaction process, the therapeutic aspects of collective bargaining and suggestions as to bargaining procedures.

Personality and Interpersonal Communication Problems

A basic proposition in the study of small groups is that every group, including groups engaged in collective bargaining, operates

[1] Arthur M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948); John R. Commons, *Economics of Collective Action* (New York, Macmillan Publishing Company, 1950).

on two levels—one level dealing with objective problems and the other level with subjective problems.[2] At the objective level the content of the collective agreement is negotiated. This is the conscious, intellectual level which deals with facts, economics and power relationships. The objective level is called the "task orientation" or the "agenda" of the group. The subjective level deals with the subconscious, emotional and vaguely felt problems of the group. These problems are not fully understood by the person involved and, therefore, are not *verbally* communicated to others. Problems at the subjective level are not caused by stupidity but are the reactions to other individuals based upon limited experience, faulty perception and irrational inferences which, in turn, are frequently related to personality problems.

Collective bargaining, therefore, is a process which must resolve two sets of problems —the collective bargaining demands at the objective level and the personal psychological needs of the bargainers (the hidden agenda) at the subjective level. Human relationists view the problems at the subjective level as obstacles that must be dealt with before the negotiators can come to grips with bargaining issues. Viewed in this manner, the collective bargaining process should provide a means for dealing with problems at both levels, and negotiators should be made more aware of the subjective issues which may be blocking progress in the solution of the "real" problems in negotiations. Anyone experienced in collective bargaining can supply his own examples of unstated issues lurking in the background of negotiations and preventing agreement upon the stated issues.

Human relationists hold that well-adjusted, emotionally mature individuals are consciously aware of their motivation and sensitive to the psychological difficulties of others and, therefore, are better able to cope with problems at the subjective level. The economic man, rational, in touch with reality at the objective intellectual level and busily maximizing and optimizing, is the mature negotiator. Neurosis, however, is widespread in the population. In the absence of some selective factor in the composition of negotiating committees, the lack of emotional maturity may be a problem of collective bargaining.

Of the many personality difficulties interfering with small group effectiveness, human relationists most frequently comment on the authoritarian personality and upon frustration-aggression patterns. The authoritarian personality is characterized as emotionally unstable, manipulative, over-realistic and over-stressing naked power. The individual with an authoritarian personality tends to repress facts which are contrary to belief, think in rigid stereotypes, become insensitive to the feelings of others and usually be wrong in estimating the goals of others.[3] This kind of personality is apt to have difficulty in any group that he could not dominate, much less in a collective bargaining situation. Such an individual would not be perceptive to problems at the subjective level.

There tends to be twice as many authoritarian personalities in management as can be expected by chance.[4] (I know of no study of the number of authoritarian personalities in union heirarchies.) Several mediators have told the writer that a major cause of deadlocks in collective bargaining is the lack of perception on the part of management representatives and their inability to understand the workers' point of view. These mediators held that union representatives, on the other hand, tended to be more sensitive to the problems of management representatives.

Research indicates widespread frustration arising from the nature of industrial organization and urban society. Frustration often leads to nonrational aggressive behavior, which only causes others to react aggressively rather than resolving the real cause of the frustration.[5] Elton Mayo is said to have told his classes that *all* demands for higher wages are the consequence of the inability of workers to state the frustrations of which they are not fully conscious. The intense reaction by critics of the Mayo group

[2] S. H. Foulkes and E. J. Anthony, *Group Psychotherapy* (Baltimore, Penguin Books, 1957), pp. 23-24, 54, 227; Herbert Thelen, *Dynamics of Groups at Work* (Chicago, University of Chicago Press, 1954), pp. 131, 239, 252, 270, 276.

[3] H. J. Eysenck, *Uses and Abuses of Psychology* (Baltimore, Penguin Books, 1953), pp. 261-281; Thomas Gordon, *Group Centered Leadership* (New York, Houghton Mifflin Company, 1955), pp. 128-129; Thelen, work cited at footnote 2, at pp. 103-106.

[4] Donald and Eleanor Laird, *The New Psychology for Leadership* (New York, McGraw-Hill Book Company, 1956), pp. 47, 90; William Utterback, *Group Thinking and Conference Leadership* (New York, Rinehart and Company, Inc., 1950), pp. 101-112, 147; Walter Welsskoff, "Industrial Institutions and Personality Structure," 7 *Journal of Social Issues* 1-6 (1951).

[5] Ross Stagner, *Psychology of Industrial Conflict* (New York, John Wiley & Sons, Inc., 1956), pp. 157-162, 186-190, 502-504; J. A. C. Brown, *The Social Psychology of Industry* (Baltimore, Penguin Books, 1954), pp. 245-275.

to his overstatement of the problem has caused some economists to overlook the possibility that unstated frustrations may lie hidden behind *some* economic demands. Mediators have observed situations in which no offer from the company would be satisfactory because the workers were in a mood (aggressive) for a strike.

Personality problems cause difficulty in interpersonal communications, especially at the subjective level. Carl Rogers states that the emotionally maladjusted individual does not understand himself and, therefore, cannot express his own values, attitudes and feelings.[6] This type of individual does not know how to listen to what others are trying to communicate; he does not understand the viewpoint of others. He tends to judge and to evaluate too soon. Mason Haire states the problem as one in perception and subception.[7] The emotionally disturbed have problems of perception at the conscious level in selecting relevant data, relating the data to past experience and organizing material into an understandable pattern. Faulty subception at the subjective level leaves the individual insensitive to nonverbal communications. Thus stated, collective bargaining in part is a problem of changing perceptions and this, in turn, may be a problem in personality adjustment.[8]

Interaction Process in Collective Bargaining

The interaction process is a technique of observing and measuring the process by which groups solve problems and reach decisions. Laboratory research using the interaction analysis indicates that successful problem-solving groups proceed through the following stages:[9]

(1) Question-asking, clarifying and restatement of the problem so that all participants fully understand the nature of the problem.

(2) Offering of tentative solutions without evaluation.

(3) Evaluation of the consequences to alternative solutions (this is the critical stage, tension mounts, and humor is often injected at this point to relieve tension).

(4) Agreement on course of action (timing as to just when to introduce the proposed solution is critical to acceptance—the perceptive person has the "feel for the situation" and knows when the time is right for acceptance of a proposal).

Unsuccessful problem-solving groups mixed up stages (1), (2) and (3) so that stage (4) was never reached. Laboratory observers were of the opinion that the inability to handle personality problems of the subjective level was an important factor in causing failures. The objection may be raised that no power relationship existed in experimental groups of college students who were hired to participate in problem-solving groups.

The interaction process of analysis was applied to 72 conferences in industry and government involving conflict situations where power relationships existed.[10] The findings support the laboratory evidence. The conclusions are qualified, however, by the observation that the degree of initial disagreement was also a factor in predicting a successful solution to a dispute. In other words, real conflict at the objective level cannot be overlooked in the study of the subjective level or the interaction process.

The interaction process has also been applied to collective bargaining situations. Tape recordings of 12 mediation cases were analyzed by Harry Landsberger, and 11 collective bargaining sessions were observed by W. H Osterberg.[11] Their conclusions support the findings in the laboratory and conference situations. Tentative inferences from analysis by the interaction process may be made:

(1) Successful collective bargaining depends upon the conscious following of the four-stage technique of decision-making. Such

[6] Carl Rogers and F. J. Roethlesberg, "Barriers and Gateways to Communication," *Human Relations for Management* (New York, Harper & Brothers, 1956), pp. 150-163; Gordon, work cited at footnote 3, at p. 178.

[7] Mason Haire, "Interpersonal Relations in Collective Bargaining," *Research in Industrial Human Relations* (New York, Harper & Brothers, 1957), pp. 182-190; Stagner, work cited at footnote 5, at p. 385.

[8] Brown, work cited at footnote 5, at p. 178; Stagner, work cited at footnote 5, at pp. 381-382, 495-499.

[9] Robert Bales, "In Conference," 32 *Harvard Business Review* 44-50; Robert Bales, "How People Interact in Conferences," 192 *Scientific American* 31-35.

[10] Harold Guetzkow and John Cyr, "An Analysis of Conflict in Decision Making Groups," 7 *Human Relations* 367-382; D. G. Marquis, Harold Guetzkow and R. W. Hegns, "A Social Psychological Study of the Decision Making Conference," *Groups, Leadership and Men* (Pittsburgh, Carnegie Institute of Technology Press, 1951), pp. 55-67.

[11] Henry Landsberger, "Interaction Process Analysis of Labor Management Disputes," 51 *Journal of Abnormal and Social Psychology* 552-558 (1955); Stagner, work cited at footnote 5, at pp. 386-390; W. H. Osterberg, "A Method of Studying Bargaining Conferences," 3 *Personnel Psychology* 169-178 (1950).

a view stresses human-relations skill and ignores power relationships. Human relationists, today, do not believe that successful interpersonal relations can be taught as a skill or technique, and that power issues at the objective level can be dismissed.

(2) Successful collective bargaining depends upon emotional maturity of the negotiators which reduces interpersonal problems at the subjective level and permits the problem-solving process to operate. Perhaps conscious awareness of the stages of development in group decision-making will help, but emotionally disturbed individuals will lack the perception necessary to the process. Once more, issues of power at the objective level may block agreement, but again it must be recognized that the lack of an orderly collective bargaining process caused by the personality difficulties of one or more of the negotiators may also be the cause of a strike.

(3) Finally, it may be inferred that if there is, at the outset, a high probability that agreement will be reached, the observed pattern of decision-making will be followed. On the other hand, where genuine economic, political or power issues are great, there is less apt to be an orderly bargaining process.

Collective Bargaining as Group Therapy

Clinical psychologists believe that *all* discussion groups have a therapeutic effect on the participants.[12] An individual cannot understand what he cannot express and group discussion raises to a conscious level, through verbalization, unformulated subconscious feelings. Conscious awareness of the basis of attitudes and the acceptance of reality, in turn, may lead to changes in the individual's personality. Collective bargaining is not only a legal, contract-making process but also a group interaction process which has therapeutic effects. To the extent that collective bargaining disputes are subjective issues rather than objective issues, the collective bargaining process itself may improve perceptions and bring about personality change. Moreover, human relationists find that the behavior pattern of individuals is modified by the groups to which individuals belong, and individuals tend to acquire some of the characteristics of the groups in which they have membership. This finding need not imply that individuals are completely "other directed" mechanisms that easily acquire and lose the properties of the particular group to which they belong at the moment. On the contrary, the human relationist view of group interaction replaces the simple minded stimulus-response analysis of earlier industrial psychologists. There is no experimentor-experimentee or manipulator-manipulatee relationship, for in the crucible of collective bargaining everyone is an agent of change and everyone is changed. Representatives of both labor and management have new attitudes and perceptions as a consequence of the collective bargaining experience.[13]

The therapeutic aspect of collective bargaining was suggested to me by the behavior pattern of delegates (administrators, executives, teachers and lawyers) attending the 1957 session of the Western Training Laboratory. The laboratory is modified group psychotherapy involving group discussions without the benefit of a chairman or an agenda. No union or management negotiator that I knew would behave in group situations as did these delegates. As laboratory sessions progressed, however, the delegates did learn to work together even though the process of communicating and understanding one another was difficult and sometimes painful. There seemed to be a parallel between group development at the laboratory sessions and the evolution of collective bargaining relationships at two different companies in which I was at one time personally involved.

In both plants the management was bitterly opposed to unionism and collective bargaining as a matter of principle. In both plants the workers and their representatives were militant because of a long history of autocratic management. Collective bargaining under these conditions was table pounding, shouting and swearing sessions. Frequent wildcat strikes (reality testing) forced representatives of both sides to come to grips with the objective problems. Over a period of 20 years a mature collective bargaining relationship has evolved in both plants which is similar to the classic examples of mature industrial government recorded by students of labor relations. The early stages of collective bargaining in these plants reminded me of the early stages of group discussions at the training laboratory, and recalled to

[12] Gordon, work cited at footnote 3, at p. 94: Foulkes and Anthony, work cited at footnote 2, at pp. 52, 84.

[13] Michael Fogarty, *Personality and Group Relations in Industry* (London, Longmans, Green & Company, 1956), pp. 104-105: Stagner, work cited at footnote 5, at pp. 378, 379, 413.

my mind that the men who are now seasoned negotiators did not always behave in a mature manner.

Such developments in collective bargaining relationships may be compared to the generalized outline of the history of therapy groups: [14]

(1) Emotional conflict situation. (Child temper tantrum level.)

(a) Floundering and chaos in group discussion which, from the therapist's viewpoint, is desirable in bringing subconscious feelings to the surface.

(b) Frequent emotional outbursts, which are desirable for their cathartic effect.

(c) Personal antagonisms, the basis of which are not consciously understood.

(d) Intellectual content of discussion which centers about issues of authority, dependency, conformity and change.

(e) Attempts at sincerity and honesty which fail.

(2) Sweetness and light. (Juvenile, "togetherness" stage—also called the nakedness stage because people are so frank about themselves.)

(a) Reduction of hostility and tension through joking.

(b) Friendship and identification with the group—the "we feeling."

(c) Getting to know people as individuals within the group, which changes attitudes and stereotypes.

(d) Stress upon harmony—"the group is bigger than us"—which leads to group cohesion.

(3) Disenchantment—flight.

(a) Growing ambivilence towards the group in which desire for unity is offset by selfishness and individualism.

(b) Belongingness which becomes suffocating.

(c) The myth of harmony and common goals which becomes apparent.

(4) Mature individuals in a mature group.

(a) Areas of conflict which are clearly and consciously understood.

(b) Increased tolerance of other people and other viewpoints. End of *unwarranted* hostility.

(c) Improved communication, including the ability to listen to others, to control emotions (which does not mean the absence of emotions) and increased sensitivity to problems on the subjective level.

(d) Task orientation of the group, which is primarily concerned with objective problems yet takes care of problems on the subjective level.

(e) Development of the ability to define problems clearly and realistically.

Labor relations specialists long have held that agreement on a contract as a legal document did not bring about satisfactory labor relations, and that although the contract is important, changes in attitudes are equally important. The therapeutic qualities of a continuing bargaining relationship brings about this change in attitude.

Thus far in this paper, only the relationship between the actual negotiators has been discussed. It is now time to relate the process of collective bargaining to labor relations in the shop. There is a similarity between the traditional labor economists view of the growth of mature industrial government and the more recent human relations view. The traditional view is that collective bargaining must begin at the top with formal recognition of the union as exclusive bargaining agent, but that the ultimate goal is a satisfactory relationship between the foreman, the shop steward and the work group.[15] There is a long and difficult road toward this goal. Human relationists are also concerned about the attitudes and style of leadership of supervision, considering authoritarian supervision a basic cause of labor unrest. The supervisory problem, however, has been related to the general psychological climate of the organization which is determined by top management.[16] The failure of human relations training courses has been attributed to the fact that supervisors are unable to assume a democratic style of leadership in an authoritarian organization. Change must begin at the top. Collective bargaining as therapy not only changes the attitudes of top management, but also brings about a change in psychological environment of the organi-

[14] Warren Bennis and Herbert Shepard, "A Theory of Group Development," 9 *Human Relations* 415-432 (1956); Foulkes and Anthony, work cited at footnote 2, at pp. 153-201; Gordon, work cited at footnote 3, at pp. 230-270; Thelen, work cited at footnote 2, at pp. 129-181.

[15] Benjamin Selekman, *Labor Relations and Human Relations* (New York, McGraw-Hill Book Company, 1947); National Planning Association, *Causes of Industrial Peace Under Collective Bargaining* (Washington, D. C., National Planning Association Studies 1-14, 1948-1953).

[16] Gordon, work cited at footnote 3, at pp. 6-8, 96; Laird, work cited at footnote 4, at p. 57; Norman Maier, *Principles of Human Relations* (New York, John Wiley & Sons, Inc., 1955), pp. 2, 7, 19, 49; John Perry, *Human Relations in Small Industry* (New York, McGraw-Hill Book Company, 1954), p. 1.

zation which, in turn, demands a change in supervisory practices. Accordingly, change in style of supervision is not only a legal process of contract enforcement through arbitration, but also a therapeutic process. Kurt Lewin designated human-relations training as training in democracy, and both the legal and the therapeutic aspects of the development of mature industrial government are training in industrial democracy.

Suggestions for Improving Collective Bargaining Process

Some human relationists move from the observation of group behavior to offer specific suggestions for the improvement of the collective bargaining process. Suggestions found in human relations literature include the following:

(1) Collective bargaining would be improved if negotiators acquired a spirit of cooperation; if negotiators realized that labor and management are partners in production. While the interests of labor and management are not identical, they have parallel interests in the success of the business.[17]

(2) Some human relationists are critical of the practice of having the opposing parties face each other, seated on opposite sides of the bargaining table. The seating arrangement invites strife rather than cooperation. Instead, they suggest that labor and management representatives take alternate seats about a round table.[18]

(3) Following from the above, the practice of having one principle spokesman for each party is condemned. It is recommended that all negotiators pitch in on the discussion of an issue.[19]

(4) It is suggested that the stress on labor's *demands* and management's *prerogatives* be played down because such an approach only arouses hostility. Emphasis should be placed on specific problems. The goal should be a common understanding and mutual agreement rather than the "winning" of demands.[20]

(5) Similarly, the practice of making demands and counterdemands coupled with threats of strike and lockout are criticized as leading to horsetrading and compromise rather than to an understanding of problems and to mutually satisfactory solutions.[21]

(6) Finally, some human relationists urge that negotiators give up attempts at gamesmanship to approach the bargaining table with frankness and sincerity.[22]

These suggestions, arising from observations of experimental groups, show considerable naiveté concerning the nature of collective bargaining. They arise, in part, from the human relations preoccupation with group harmony and emphasis upon problems at the subjective level. Many of these suggestions are unworkable because there are real economic issues as well as power struggles involved in collective bargaining. Representatives of unions and of corporations are spokesmen of economic interest groups and of political institutions. As such, labor representatives will continue to make demands and management representatives will continue to guard the freedom to manage. The power of the strike and lockout, coupled with the power of law and public opinion, brings them together and forces them to reach a workable agreement. In the process there will be compromise and horsetrading. Since there are genuine, objective issues to be resolved, it is wise to have but a single spokesman for each side.

On the other hand, a more careful statement of these suggestions would make them similar to traditional views of mature collective bargaining. In spite of a basic conflict of interest, labor and management have to learn to live together. There are areas where cooperation is possible. In mature bargaining, discussions are problem-oriented rather than theoretical polemics of labors' rights and managements' prerogatives. Labor relations specialists have always held that legalistic trickery and excessively formal procedures do not lead to sound labor relations, and they have advocated sincerity and informality when the parties have come to trust one another.

Summary

Borrowing from the concepts of clinical psychologists, collective bargaining may be looked upon as a two-level process—the objective level and the subjective level.

[17] Thelen, work cited at footnote 2, at p. 191; Utterback, work cited at footnote 4, at p. 59.
[18] Utterback, work cited at footnote 4, at p. 59.
[19] Utterback, work cited at footnote 4, at p. 59; Brown, work cited at footnote 5, at p. 184.
[20] Stagner, work cited at footnote 5, at p. 392; William F. Whyte, *Money and Motivation* (New York, Harper & Brothers, 1955), pp. 257-260.
[21] Thelen, work cited at footnote 2, at p. 284; Utterback, work cited at footnote 4, at p. 60.
[22] Berrien and Bash, *Human Relations, Comments and Cases* (New York, Harper & Brothers, 1956), p. 204; Perry, work cited at footnote 16, at pp. 157-159.

Economists tend to ignore the subjective level in collective bargaining while placing emphasis on economic factors in the employment bargain between rational men as buyers and sellers of labor. Psychologists, on the other hand, tend to stress the subconscious, emotional, irrational and personal issues in the bargaining process. Consequently, they overlook the economics and politics of a genuine power struggle. Both levels must be recognized and placed in perspective.

The collective bargaining process may be studied in terms of the interaction process. Personality difficulties may stand in the way of an orderly process of problem solving. A conscious knowledge of the stages in the problem-solving process may prevent procedural difficulties from blocking a decision. Nevertheless, one cannot lose sight of the fact that when opposing parties have serious objective-level problems, the stages in the interaction process do not function smoothly. The existence of only minor, objective-level issues increases the probability that an orderly bargaining process will be followed.

All discussion groups tend to have a therapeutic effect in the clarification of subjective-level problems. Collective bargaining is not only a legal, contract-making process, but may be viewed as a therapeutic process as well. The history of typical collective bargaining relationships parallels the history of the typical psychotherapy group. The views of labor relations specialists on the evolution of mature industrial government coincides with the human relationists views on the psychological climate of an organization and on leadership style. Both views favor greater industrial democracy.

Economic issues remain primary in collective bargaining, but collective bargaining is conducted by men. Men that have emotional problems at the subjective level may be unable to clearly assess power relationships and economic reality. Industrial unrest may follow which cannot be justified at the objective level. Mature individuals in a mature collective bargaining relationship will still have conflict over real issues. Conflict that is clearly and consciously understood is like a road map—it does not alter the territory but it enables you to plan your route.[23] This type of conflict was described as "constructive conflict" by Mary Follet and is socially desirable. Although human relationists tend to condemn all conflict, what they are mainly concerned with is the senseless conflict between men that cannot understand their own motivation or the motivation of others. Some labor economists, on the other hand, appear to favor conflict for its own sake, being frightened by too much harmony and cooperation. Union-management conflict, however, is limited in area and intensity by a complex of legal, political and economic power in order to achieve a balance of bargaining power. Under these circumstances there is no trend toward class conflict of revolutionary proportions, but rather concepts of "mutual survival," similar to human relations concepts, emerge to temper naked power struggles.

[The End]

STOCKS

The Securities and Exchange Commission index of weekly closing prices of common stocks listed on the New York Stock Exchange for the week ending August 15 stood at 350. Although there have been fluctuations, the tendency of the market is still up.

Yields on United States Government securities and on corporate, state and local government bonds showed marked advances from mid-July to mid-August. The yield on long-term Treasury bonds rose to over 3.60 per cent, about one-half percentage point above the 1958 low, and the Treasury bill rate rose to more than 1½ per cent. Effective August 15, the discount rate was raised from 1¾ per cent to 2 per cent at the Federal Reserve Bank of San Francisco.

In late July the Treasury refunded over $16 billion of securities with a 1⅝ per cent certificate and sold $3.5 billion of tax anticipation certificates for cash. Although the Federal Reserve System bought $1.2 billion of the securities involved in the refunding, cash redemptions amounted to nearly 30 per cent of public holdings. As we went to press, steel stocks turned in substantial advances on the New York Stock Exchange but the rest of the market by and large did little.

[23] Foulkes and Anthony, work cited at footnote 2, at p. 227.

Topic: Public Policy and Power Relationships in Industrial Relations
Chairman of Session: Neil W. Chamberlain

Public Policy Toward Trade Unions: Antimonopoly Laws

By EARL F. CHEIT, University of California, Berkeley

JUST when it seemed that the labor and monopoly issue might be rested for the longest period in the recent history of this stormy and politically treacherous problem, a strong and persuasive movement to revive it has appeared.

Historically, the labor and monopoly issue has its origins in the successful secondary boycott initiated by the United Hatters of North America against Dietrich Loewe and Company, and the United States Supreme Court decision holding it in violation of the Sherman Act. That decision opened up one of the most difficult legal questions ever posed in the search to define the legitimate economic activities of unions: Are the union self-help activities, which depend upon combination for their success, an unlawful exercise of monopoly power?

This year marks the fiftieth anniversary of the first United States Supreme Court decision in the famous *Danbury Hatters* case.[1] During this half-century, American trade unions have fully persuaded all but their professional critics that they believe in a free enterprise economy—that their program and basic aim is to work within a capitalistic system and not to destroy it. The new AFL-CIO constitution even discards the class struggle language of the old AFL constitution and replaces it with a business union-like phrase.[2]

However, organized labor has neither completely convinced all of its friends[3] nor, more important, the courts that union economic activities are fully compatible with the competitive economic system they espouse.

Thus one of the most often debated, if not consistently resolved, issues of public policy is labor's status under federal antitrust laws.[4] Moreover, the issue has spread beyond the legal question involved in the *Danbury Hatters* case. Antimonopoly laws going far beyond the coverage of the Sherman and Clayton Acts have been proposed to regulate many union activities, to control the size of bargaining units, to prohibit national multiunit bargaining arrangements and to control directly the strength of the union to influence wages.

Although many of the arguments about labor and monopoly have become tired cliches, the issue itself has been anything but sterile. The Supreme Court first carried the *Danbury Hatters* result out to its logical conclusion, then appeared briefly to reverse itself, and more recently amended the decision to hold that union activity is not subject to antitrust legislation so long as it is done in self-interest, as part of a labor dispute, and not taken in concert with nonlabor groups.[5]

With the United States Supreme Court's position now relatively well settled, argument over labor's antitrust status has again become prescriptive and directed at legisla-

[1] *Loewe v. Lawlor,* 208 U. S. 274 (1908).

[2] Compare paragraph 3 of the new constitution's preamble with the opening paragraph of the last AFL constitution.

[3] See Charles E. Lindblom, *Unions and Capitalism* (New Haven, Yale University Press, 1949).

[4] Most states have no anti-injunction laws and those which do frequently do not offer the comprehensive coverage and protection of the Norris-LaGuardia Act. Thus while unions are exempt from antitrust laws in 16 states (California, Colorado, Iowa, Maine, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Texas and Virginia), they are still vulnerable to state court antitrust suits.

[5] *Allen-Bradley Company v. Local No. 3, IBEW,* 9 LABOR CASES ¶ 51,213, 325 U. S. 797 (1945), and *U. S. v. Hutcheson,* 3 LABOR CASES ¶ 51,110, 312 U. S. 219 (1941), are two key cases holding this interpretation. They have been followed in subsequent decisions.

tion. Two bills have been introduced in the House of Representatives [6] that would extend antitrust coverage to union activities which are presently immune. House Concurrent Resolution 162 calling for a joint Senate-House Committee study of the necessity, effects and advisability of more extensive labor coverage under antitrust law was recently introduced by Representative Hiestand. Three such studies are now known to be under way in the administration. The Justice, Commerce and Labor Departments, spurred on in part by pressures from the McClellan Committee findings, are reported to be making an analysis of proposals to make unions subject to antitrust laws.[7] Although they have not received administration support, two specific legislative proposals (one by the Commerce and one by the Justice Department) have been widely discussed in recent months.

Professor Leo Wolman, long an advocate of stronger antitrust action against unions, recently prepared a report issued by the National Association of Manufacturers which analyzes and proposes in part an antitrust solution to the problem of "union monopoly power." [8] A similar suggestion is made by Dean Roscoe Pound in his pamphlet *Legal Immunities of Labor Unions*.[9] Professor Edward H. Chamberlin's recent study *The Economic Analysis of Labor Power*,[10] while avoiding specific legislative recommendations, suggests that the public interest requires restrictions against the monopoly aspects of union power and that perhaps this should be done by a labor market Sherman Act. More direct though less persuasive is Donald R. Richberg's *Labor Union Monopoly* [11] which calls for extension of antitrust coverage of union activities, among other proposals. Professor Sylvester Petro's strong recent indictment of public policy toward labor [12] includes also the demand that labor monopoly power be restricted.

These remarks seek briefly to review the changing legal status of labor under antimonopoly laws and to identify some of the forces that have influenced it. The viewpoint expressed is:

(1) The present approach of our antitrust labor policy is a sound one.

(2) There is little possibility that it will be significantly altered along the lines most frequently proposed, although one of the current proposals seems worthy of careful consideration.

(3) To solve the real danger seen by those most concerned with labor's monopoly power would require measures that no one would be likely to accept.

Labor's Status Under Antimonopoly Laws

Antitrust policy toward labor is the joint product of the Sherman, Clayton and Norris-LaGuardia Acts on the one hand and a half-century of court decisions involving complicated definitions of legislative intent on the other. Together they have produced essentially three different interpretations of labor's antitrust status which, greatly simplified, may be summarized as follows:

(1) The first antitrust labor policy was, of course, that which grew out of the *Danbury Hatters* case. In a series of well-known Supreme Court decisions [13] what was essentially a checkmate policy evolved. Under it the Sherman Act appeared as a check for union coercive economic activity from which there was no apparent escape. By 1925 there were grounds for inferring that even primary labor boycotts were in violation of the act.[14]

(2) Although the Norris-LaGuardia Act started the downfall of this interpretation of the Sherman and Clayton Acts, it was effective until reversed by the Supreme Court in two important rulings in 1940 and 1941.[15] Together they scuttled the checkmate policy and produced a new, if short-lived, successor in which the Sherman Act virtually turned cheek on all trade union economic activities—a policy which, in its later applications, provided grounds for

[6] H. R. 6515, introduced by Representative Wint Smith of Kansas, and H. R. 678, introduced by Representative Edgar Hiestand of California.

[7] *Wall Street Journal*, March 29, 1957, p. 1.

[8] *Monopoly Power as Exercised by Labor Unions* (New York, National Association of Manufacturers, 1957).

[9] Published in 1957 by the American Enterprise Association, Inc., New York.

[10] New York, American Enterprise Association, 1958.

[11] Chicago, Henery Regnery Company, 1957.

[12] *The Labor Policy of the Free Society* (New York, Ronald Press Company, 1957).

[13] *Duplex Printing Press v. Deering* (1921); *United Mine Workers v. Coronado Coal Company* (1922 and 1925); *Bedford Cut Stone Company v. Journeymen Stone Cutters' Association* (1927).

[14] This interpretation of the *Coronado Coal* case is discussed by Fred Witney, *Government and Collective Bargaining* (Chicago, J. B. Lippincott Company, 1951), pp. 87-93.

[15] *Apex Hosiery Company v. Leader*, 2 LABOR CASES ¶ 17,063, 310 U. S. 469 (1940); and *U. S. v. Hutcheson*, cited at footnote 5.

inferring that no union economic coercive activities could be violations of antitrust law. This interpretation was, in turn, expressly modified by the famous *Allen-Bradley* decision in 1945 which held that a combination with nonlabor groups to exert product market influences was a violation of antitrust law.

(3) Current antitrust policy has followed the approach of the *Allen-Bradley* decision. It provides antitrust immunity to union activities only so long as they are confined to labor groups, labor disputes and the labor market. In a sense it is a policy of containment. Acts that fall outside these labor-market boundaries or involve fraud, violence or direct product market restraints will not be protected.

Early Debate on Labor's Antitrust Status

A brief review of the changing course of debate over labor's antitrust status reveals how the issue has evolved to reflect newer circumstances.

Under the checkmate interpretation of the Sherman and Clayton Acts, the central question was whether or not the Supreme Court misconstrued Congressional intent by bringing unions under the Sherman Act. Extensive authority was marshalled on each side of the question. The prodigious researches of Professor Edward Berman[16] concluded that the Supreme Court was in error, while Professor A. T. Mason's[17] study found that it was not. The issue was considerably enlivened with new questions of legislative intent when the Supreme Court held the Clayton Act to be virtually meaningless in its effect on labor status under the Sherman Act, but the central issue remained essentially the same until the *Apex* and *Hutcheson* decisions put the Supreme Court on Professor Berman's side.

By this time too many other events had occurred to leave the argument in its old form. The period between the *Apex* and *Allen-Bradley* cases coincides closely with the dates of World War II. Thus it was at the time that organization of mass production workers was secured, enormous growths in union membership were realized, important union security clauses were being signed, and national multiunit bargaining was being extended that the United States Supreme Court reversed its restrictive interpretation of labor's status under antitrust laws and adopted its most liberal view.

Those who were worried about the growing strength of trade unionism found grounds for serious concern in this combination of circumstances. Attorney General Thurmon Arnold was one of them. He brought to trial a series of cases against unions in the construction industry seeking to use antitrust law to gain relief (in his words) from (1) jurisdictional strikes, (2) strikes to erect a tariff wall around a community, (3) refusals to work or install prefabricated materials, (4) make-work rules and (5) price-fixing arrangements with employers. When the Senate Small Business Committee in 1945 inquired of his progress, Attorney General Arnold reported that he had failed on all counts.

Thus it is easy to see why, against this background of events and the decisions in the *Apex, Hutcheson* and *Hunt*[18] cases, the critics of antitrust labor policy were not merely arguing whether or not the Supreme Court was in error but were demanding that union practice be subject to greater control by antimonopoly laws. This was especially true after the *Hunt* case. Hunt, a contract trucker who had resisted organization of his business and had fought a bitter and violent strike, was forced out of business when the union organized his customers but refused union membership to Hunt or his employees.

An important part of the post-World War II movement for corrective labor legislation, therefore, was antimonopoly labor laws—particularly those proposed by Senator Ball and Representative Hartley. Both of these measures came very close to passage. The Hartley bill cleared the House and Ball's proposal failed in the Senate by only one vote.

Influences of Past Decade

In at least seven of the ten years since these two bills were in issue the labor and monopoly question has sustained Congressional interest. The original Hartley bill of 1947 was followed by similar measures introduced by Congressmen Gwinn and Fischer; these were followed by the Lucas bill which was debated during the first year of the present administration.

[16] *Labor and the Sherman Act* (New York, Harper & Brothers, 1930).

[17] *Organized Labor and the Law* (Durham, Duke University Press, 1925).

[18] *Hunt v. Crumboch*, 9 LABOR CASES ¶ 51,214, 325 U. S. 821 (1945).

The current revival of the labor and monopoly issue, however, is not merely a continuation of this string of debated and defeated legislation. Some of the old charges, for example, that unions are monopolies because they have exclusive representation or because they enjoy membership-security clauses, seem for the most part to have been quietly dropped. This reflects the fact that over the past ten years considerable maturity and sophistication in collective bargaining and labor affairs has been gained. A new, long study of antitrust policy has become available, and important legislation, court decisions and experience under the amended National Labor Relations Act have weakened some of the old arguments about labor and monopoly. Thus today's labor and monopoly argument must be considered against this background of events:

(1) The union monopoly argument consistently has been rejected by the Congress. Not only is this true of the bills mentioned above, but the legislative history of the Taft-Hartley Act reveals that the damage suits permitted under Section 8(b) and/or Section 303 are not intended to enlarge the Sherman Act. A proposal to make unlawful strikes and boycotts subject to antitrust laws and to private injunction was voted down by the Senate and later by the Joint Senate-House Committee.

(2) The *Allen-Bradley* decision and later ones which have developed a somewhat more restrictive interpretation of labor's antitrust status have removed one of the areas of concern about labor's monopoly power.

(3) Passage of Section 14(b) of the Taft-Hartley Act provided a method of prohibiting union security in interstate commerce at the state level.

(4) The union unfair labor practices sections of the Taft-Hartley Act restrict (or provide relief from) union practices previously under attack and for which antitrust solutions had been proposed. The act also provides injunctive relief and damage suits.

(5) Experience with multiunit bargaining has shown that it holds genuine advantages for employers as well as for unions. Today the demand that such bargaining arrangements be prohibited under antitrust law attracts little support.

(6) Careful analysis of the labor monopoly charge and of the proposed legislative solutions has shown many of them to be based on a faulty analogy with business monopoly and to have undesirable consequences. Professor Richard Lester's "Reflections on the 'Labor Monopoly' Issue" [19] has been widely reprinted and referred to, and clearly has had an important impact on both professional and popular thinking about the subject.

(7) Present policy that unions should be given no special antitrust immunities in the product market but that antitrust legislation should not apply to any of the union's labor market activities has received strong support.[20] President Eisenhower has made this his official view (by implication at least), and from recent history it is clear that most members of Congress agree. Those who have questioned it have not won official agreement.

In September, 1945, the House Small Business Committee, investigating the government's antimonopoly program, inquired of the Federal Trade Commission: "Should the operation of labor unions which affect monopoly or concentration of power come within your jurisdiction?" The commission responded that it did not "believe there was need for it to have corrective jurisdiction over 'monopolistic practices of labor unions' in those cases where conspiracy with management cannot be proved, but where the evidence of monopolistic practice is nonetheless clear," because it had no jurisdiction in the field and because it is a field of special legislation giving special privilege and exemption to organized labor. "Labor legislation," it continued, "is based on the philosophy that labor is not a commodity the price of which should be determined by competition among individual laborers as contrasted with hoped-for price competition among commodity sellers. Thus there is a real question as to whether words monopolistic practices have any real or substantial content."

In Support of the Labor and Monopoly Case

Those who have revived the labor monopoly issue are well aware of these facts and their implications. In reply, however, they cite other events of the past ten years which, according to their view, make urgent the enactment of restrictive labor legisla-

[19] *Journal of Political Economy*, December, 1947.

[20] For a lucid statement in support of this position see Douglass V. Brown, "Labor and the Anti-Trust Laws," a paper presented to the Labor Law Section of the American Bar Association, August 22, 1955.

tion. Today's case for antimonopoly legislation restricting union power can be grouped, with some overlap, into seven categories:

(1) Despite the fact that employers and unions like national multiunit bargaining, it is none the less undesirable because of the great concentration of power it involves, the considerable damage from the widespread strikes that it produces and the long-run costs in prices and efficiency that result from these bargaining arrangements.

(2) While the Taft-Hartley Act covers some of the areas of abuse for which antitrust protection has been sought, it has not dealt effectively with them. Most prominently mentioned are secondary boycotts and featherbedding. Furthermore, it is contended that the Taft-Hartley Act did not offer protection against situations such as occurred in the *Hunt* case.

(3) Organized labor is now a big business. With large funds at its disposal, it engages in many political and educational activities apart from collective bargaining. Yet the law and court decisions have given it immunity from controls applicable to comparable business institutions. Since unions have not been required to incorporate, they cannot be treated as legally responsible organizations to the degree required by their power.

(4) Even if the present general interpretation of antitrust law is accepted as the correct one, several restrictive practices need to be prohibited by specific legislation. These include the four practices condemned by the Attorney General's study committee—union action aimed directly at fixing: (a) the kind or amount of products which may be used, produced or sold; (b) their market price; (c) the geographical area in which they may be used, produced or sold; (d) the number of firms which may engage in their production or distribution.

(5) Through a romantic notion of collective bargaining and weak administration of labor law, trade unions have been permitted by public policy (a) to engage in a series of practices which do not spend themselves in the labor market but carry over to the product market, and (b) to gain economic power through boycotts, picketing and pressure against members and other workers, from which there is only scant protection.

(6) Given present-day interpretation of antitrust law and the National Labor Relations Act, there is no effective check on union economic strength. Thus this giant institution is, in effect, its own arbitrer of its economic decisions. Such great economic power should not exist without some outside check on its uses.

(7) This great economic power is increasingly finding its outlet in political action, and will continue until its political strength matches its economic strength.

Not all the proponents of labor monopoly legislation would agree with this full statement, but one or more of these elements can be found in most statements of the problem.

Objectives of Proposed Legislation

How would the problems be solved? There is, of course, considerable diversity in the language and specific proposals of the many solutions suggested by those concerned. An evaluation of each of them would be impossible here and, in part, this is unnecessary for much of this has already been done by Professor Lester and others. An attempt will be made here only to group these legislative proposals by broad objective, and to discuss a few specific, current proposals.

The antimonopoly approach to labor legislation may follow one (or more) of four possible courses. It may seek (1) to limit the size of the bargaining unit, (2) to encourage competition between bargaining units, (3) to prohibit unions (and often employers) from specified acts and (4) to control the substantive results of collective bargaining.

The first of these objectives has been part of the Ball, Hartley and Lucas bills and others—that is, to eliminate national multiunit bargaining by prohibiting the NLRB from certifying a national union as a bargaining agent, and by preventing the national union from seeking to enforce contract uniformity among locals.

The Hartley measure provided that the NLRB could not certify the same individual as a representative of employees of competing employers. An exception was made for small local unions of less than 100 employees and less than 50 miles apart. Employers who would fix terms of employment in violation of this provision would be subject to antitrust prosecution.

Although the second objective of encouraging competition is implicit in proposals to reduce the size of bargaining

units, Professor Harley L. Lutz has specifically proposed that unions be required to enter competitive bidding for the sale of labor services with employers free to gain the best bargaining from among competing suppliers. When an employer could not agree on terms with one union-supplier, he would be free to invite bids from another.[21]

The third of the above-listed objectives is the most important type of legislation considered today. The legislative proposal which reportedly has the support of the United States Commerce Department is an amendment to Section 6 of the Clayton Act. That section permits union exemption from antitrust prosecution when they are pursuing their "legitimate objects." The proposed legislation would define out of "legitimate objects" union attempts to control or fix prices, to control production, to limit or restrict the areas in which goods may be bought or sold, to prevent the introduction and utilization of technological improvements or new processes, or to exclude use by the employer of certain products or services. Violations would open unions to criminal suits, civil suits by the government or private suits for up to triple damages.

A milder bill, also seeking to achieve the objectives of the Attorney General's report, is said to be endorsed by the United States Justice Department. By a new antitrust law it would seek to block union pressure to restrict the type, kind or amount of products used or sold, and to influence their market price or the geographic area of their sale. However, it would only give the Attorney General power to seek court prohibition of such practices. No other enforcement or penalties would be provided.

The fourth possible objective—controlling the substantive results of bargaining—is a relatively untouched area. Except for wartime controls and the union security provisions of the Taft-Hartley Act, there is virtually no legislation for this type of control and little is being sought.

It is interesting to observe that all three of our antitrust policies have embodied the third objective, that the demanded legislation has included the first three and that, with very limited exception, the fourth has not been seriously considered.

Given the inevitable trend toward greater national union control of bargaining, and the increasing advantages of multiunit bargaining, it seems clear today that with each passing year the possibility of passing legislation which embodies the first and second objectives becomes more and more remote. It is improbable that even an aroused Congress, fresh from the McClellan Committee hearings, would come as close to passing the Ball and Hartley bills today as it did a decade ago.

This leaves only the third and fourth objectives. What of them? Of the third approach, we have already noted that national labor policy has moved in this direction aside from antimonopoly laws. Certainly most persons would agree that the practices pointed to in both discussed bills are undesirable, but an objection to the control via the proposed legislation arises. Evidence is not clear with respect to featherbedding and resisting technological change. Since the Taft-Hartley Act experience shows how difficult it is to deal legislatively with the featherbedding problem, it surely should not be injected into antitrust legislation, but should be handled in the National Labor Relations Act.

The other targets—price-fixing, production controls and limits on the sale of goods—raise other questions. To the extent that these involve direct product market intervention, they are already within the law. If they are not, there can be no serious objection to legislation bringing them within antitrust coverage. However, these will not prove to be the problem cases. Problems will arise from the fact that strong union labor market action may have product market consequences that come within the scope of the law. Would this bring antitrust law into the labor market where there are not direct product market controls? To circumvent this strong objection, the so-called Justice Department bill would not provide the usual antitrust sanctions; rather it would simply give the United States Attorney General power to ask that the offending act be prohibited. This compromise approach to these borderline cases gives the proposal considerable appeal, and if after study it is concluded that legislation is needed in these areas, it would seem to be worthy of careful consideration.

What of the fourth objective, that of direct controls on the union's wage-fixing? Given the great problems in such controls, and our distaste for governmental control

[21] See *Industry-Wide Collective Bargaining: Promise or Menace?* (Boston, D. C. Heath and Company, 1950), pp. 36-37.

of markets, it is most unlikely that this approach would be seriously proposed soon. Clearly if a mild dose of inflation or unemployment are its alternatives, they will be accepted first. As long as unions are required to face unemployment as a possible result of their wage policies, a market solution to the "uneasy triangle" seems possible.

There is an element of irony in this situation. Clearly at bottom the labor monopoly issue reflects concern with union economic power, and with the apparent lack of a check on it. Yet it seems that legislative devices to reduce union strength by controlling the size of bargaining units and encouraging competition among bargaining units cannot be enacted, nor can legislation be won that goes beyond today's sound distinction between product and labor markets, and controls union activity sufficiently to reduce its economic strength. This leaves but the fourth alternative—directly to control the results of bargaining—which is as distasteful as any problem it might conceivably solve. **[The End]**

Use and Abuse of Power

By FRANK H. CASSELL

The author is director of personnel administration of the Inland Steel Company in Chicago, Illinois.

IN THE TIME at hand only the sketchiest of statements can be made on this subject. My interests derive from one practical consideration and one ideal. The practical consideration is a desire to build and maintain constructive labor-management relationships. The ideal is a commitment to the realization of a democratic society. Involved in the achievement of these goals are (1) the wise use of power in the interest of all of the members of society, (2) preservation of the freedom of the individual and (3) maintenance of a high standard of ethics in the society.

Many who advocate the application of antitrust laws to labor unions see such an application altering the balance of power between unions and management. The broader and more important question, however, is how to assure that balance is maintained in society among the various factors bearing on the operation of our capitalistic society.

The national interests require that no one unit be powerful enough to overbalance the other factors. The balancing of power is, and must be, a continuous process. The strength of each factor grows or wanes with technological change—changes in consuming habits, external catastrophes, etc. Just a short time ago, Marriner Eccles,[1] former chairman of the Federal Reserve Board, pointed out how labor's power position had increased after World War II with the sharply increased demand for labor. "Organized labor had had a field day," he said, "with demand in many categories exceeding supply. This has put labor in the driver's seat. It has forced up wages and fringe benefits that in many instances have exceeded increases in productivity. . . . For some time now organized labor has demanded and is getting an increasingly larger share of the national income. According to a recent study by the Twentieth Century Fund, total wages and salary disbursements were 50% of the national income in 1929 and 73% in 1955, whereas dividends decreased from 5.8% to 3.9% of that income. Labor's share of the national income since 1950 increased by 10% up to the end of 1956, whereas the business share, represented by profits of all corporations, decreased by 33%."

Standards of society must also be protected. Recent congressional investigations have produced unsavory examples of un-

[1] In testimony before the Senate Finance Committee, April 16, 1958.

ethical behavior by unions, by management, and by both acting in collusion. Such behavior infects the whole of society and may easily lead to a visible worsening of national ethical standards.

Along with this goes the necessity for protecting the unhampered advances of society towards greater and greater production, and increasing numbers of jobs for the growing population. No single factor of production, nor any combination of them, should be allowed to prevent the use of techniques and methods to achieve these ends.

For many years, companies have been set up as the villain in production limitation. It certainly is true that some companies have artificially restricted production in order to get higher unit prices. You can get most of their names from bankruptcy lists or from corporation graveyards. It has been demonstrated time and again to American industry that the way to higher total profits is increased production and productivity with low unit prices, not artificially restricted production with high unit prices. One can see a clear demonstration of this by noting the continuing huge capital investment made by industry in new plants and new machines, even when the market is not growing.

Unions, on the other hand, have a long history of attempting production restriction. The most serious charge against British unionism, for example, has been that it restricted output. In the United States the charges have been only slightly less serious; 50 years ago the United States Bureau of Labor Statistics found it necessary to investigate such charges against many unions. Most of the complaints turned out to be valid.[2] Since then, restrictive practices by certain unions have continued unabated. In some cities painters refuse to allow spray guns to be used, plumbers insist that pipe be threaded on the job rather than in the factory, prefabricated houses are not allowed, concrete must be mixed on the job rather than, better and cheaper, in truck mixers. These examples, multiplied ad infinitum, are cited chapter and verse in the 1949 hearings before the Committee on Banking and Currency, United States Senate, on the economic power of labor organizations.

Overlapping this problem is that of featherbedding. National welfare requires a much stricter control of this practice. We cannot expect to eliminate it completely since featherbedding is simply one extreme on a continuum which runs the gamut from working very hard, to working medium hard, to working, to working very unenergetically, to featherbedding. The unions most addicted to featherbedding practices are, of course, the very ones whose power frequently transcends that of the employers they deal with. The latter cannot protect themselves; they certainly cannot protect the public. In addition, many featherbedding practices have been written into the law under the excuse of health or safety requirements of dubious validity. Full crew laws for railways, for example, have at one time or another been passed by 21 states. These seem to be simply ambitious, and generally successful, attempts by the railroad brotherhoods to make work.

However, perhaps more crucial in the long run than any of the foregoing is the impact of the union on the freedom of the worker. To quote Clark Kerr, past president of the IRRA: "If freedom is defined as the absence of external restraint, then unions reduce freedom, for they restrain the worker in many ways. They add to the total network of discipline already surrounding the workers through the rules and practices of the employer. When union membership was more voluntary, leaders had to be responsive to the workers to get and retain members, and this was an effective check on authority. Union security and leadership responsiveness tend to move in somewhat opposite directions."[3] A reduction in individual freedom together with a breakdown in leadership responsiveness to the membership can become a serious problem to all unions.

The use and abuse of power, as it affects the personal freedoms and economic welfare of society, has been a matter of great concern since the earliest days of our country. The various administrative units of the American government have been under critical scrutiny since the founding of the nation. American industry was subjected to an intensive national review, particularly in the 1930's. American unions are today undergoing similar scrutiny.

Out of the public's recent interest in labor unions have come three general suggestions:

(1) Application of antitrust laws.

(2) Specific laws directed to specific problems.

(3) Internal self-policing.

[2] Bureau of Labor Statistics Eleventh Special Report, "Restriction & Regulation of Output."

[3] *Unions and Union Leaders of Their Own Choosing.*

With respect to antitrust legislation, restrictive actions in product markets by companies, unions or both together are proper subjects for antitrust action. Actions to be taken in the labor market are not so clear. The antitrust route has been reviewed by the United States Attorney General's National Committee to Study the Anti-Trust Laws 1955. Consideration should be given to this type of solution and its full implications explored. Even as I say this, I am concerned with the disproportionate power wielded by a nationwide union as against an individual employer of say three or four employees, but this is a matter which may be better handled by declaring it an unfair labor practice for a labor organization to coerce, or attempt to coerce, an employer into forced recognition or bargaining.

Continuous review and scrutiny of actions affecting the interests of workers should be encouraged through legislation requiring registration, reporting and public disclosure of the operations of health, welfare and pension plans (whether union financed and operated, company financed and operated, or jointly financed and operated).

This should be supplemented with union financial reports to be filed both with the membership and with the government, and some sort of requirement to assure that union constitutions and bylaws have appropriate safeguards for unprejudiced admission to the union, and procedures which assure regular meetings, secret elections and a guaranteed grievance procedure—with arbitration.

Self-policing activities of the AFL-CIO Executive Council and the Ethical Practices Committee, and actions taken under the no-raiding agreement, are to be commended, but they will need help especially in the area of economic restrictions. Extended attempts have been made to settle the complaints of the Steelworkers and Machinists that the Sheet Metal Workers are conducting boycotts of goods produced by companies under contract with these two unions. It now appears necessary to pass clarifying legislation to prohibit any secondary boycott instigated by a union now covered by Taft-Hartley and designed to (1) coerce an employer directly or (2) induce individual employees in the course of their employment to refuse to perform services in order to coerce said employer to cease doing business with others.

Above and beyond application of the antitrust laws, specific labor laws and internal union policing, wisdom and restraint will be required from all those responsible for the several component factors of production if their economic power is to be exercised for the benefit of society and all of its members. **[The End]**

PROGRAM OF THE SPRING MEETING

St. Louis, Missouri **May 2-3, 1958**

FRIDAY, MAY 2

10:00 a.m.

POWER RELATIONSHIPS WITHIN THE LABOR MOVEMENT

Chairman: Joel Seidman, University of Chicago

Papers:

(a) *Concepts of Power*
Murray Edelman, University of Illinois

(b) *Power and the Pattern of Union Government*
Jack Barbash, University of Wisconsin

(c) *Factionalism and Union Democracy*
Grant McConnell, University of Chicago

1:15 p.m.

FACTORS AFFECTING POWER RELATIONSHIPS IN INDUSTRIAL RELATIONS

Chairman: Milton Derber, University of Illinois

Papers:

(a) *Union Traditions and Membership Apathy*
Bernard Karsh, University of Illinois

(b) *Power Factors in Collective Bargaining: A Management View*
Harry Rains, Hofstra College

(c) *Some Factors Affecting Power Relationships in Labor-Management Relations*
Daniel Scheinman, Labor Relations Consultant

(d) *Labor-Management Relations in the Chemical Industry: The Economic Setting*
Arnold R. Weber, M.I.T.

3:30 p.m.

SOME IMPACTS OF POWER IN INDUSTRIAL RELATIONS

Chairman: George Seltzer, University of Minnesota

Papers:

(a) *Pattern Bargaining by the United Automobile Workers*
Harold Levinson, University of Michigan

(b) *The Impact of Unionism on Earnings in the Men's Clothing Industry*
Elton Rayack, Pennsylvania State University

(c) *An Economic Rationalization of the Wage Structure and Levels of Airline Pilots*
Stephen P. Sobotka, Northwestern University

(d) *The NLRB and Arbitration; Conflicting and Compatible Currents*
Bernard Samoff, NLRB

(e) *Noneconomic Factors in Collective Bargaining*
William H. Knowles, University of California

7:45 p.m.

DINNER MEETING

Chairman: E. Wight Bakke

Paper:

Lights and Shadows in Labor-Management Relations
Nathan Feinsinger, University of Wisconsin

SATURDAY, MAY 3

9:30 a.m.

PUBLIC POLICY AND POWER RELATIONSHIPS IN INDUSTRIAL RELATIONS

Chairman: Neil W. Chamberlain, Columbia University

Papers:

(a) *Public Policy Toward Trade Unions; Anti-Monopoly Laws*
Earl Cheit, University of California

(b) *Power in Industrial Relations: Its Use and Abuse*
Frank Cassell, Inland Steel Company

(c) William Gomberg, Washington University

(d) Daniel Bell, Fortune Magazine